

MONTANA LEGISLATIVE HISTORY

Chapter 334 19 77

Bill H _____ S 33

Original bill & history ☒ c

H. Committee on Judiciary

Hearing Date(s) Mar 11 ☒ c

_____ c

_____ c

_____ c

Date Out

Mar 22 ☒ c

S. Committee on Judiciary

Hearing Date(s) Jan 11 ☒ c

Jan 14 ☒ c

Jan 31 ☒ c

_____ c

Feb 17 ☒

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 SENATE BILL NO. 33
2 INTRODUCED BY BLAYLOCK
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE,
5 REPEAL, AND RECODIFY THE ELECTION LAWS RELATING TO THE
6 CRIMINAL PROVISIONS FOR ELECTION AND CAMPAIGN PRACTICES."
7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Election code not to supersede criminal
10 code — statute of limitations. (1) The penalty provisions
11 of the election laws of this state are intended to
12 supplement and not to supersede the provisions of the
13 Montana Criminal Code.
14 (2) Unless otherwise provided, the general time
15 limitations for prosecutions for violations of the election
16 laws are those specified in 94-1-106.
17 Section 2. Trivial benefits not covered by criminal
18 provisions. It is not the intent of the election laws of
19 this state to criminalize activities involving trivial
20 benefits incidental to the campaign process which involve no
21 substantial risk of undermining the election process.
22 Section 3. Violations as misdemeanor. A person who
23 knowingly violates a provision of the election laws of this
24 state for which no other penalty is specified is guilty of a
25 misdemeanor.

1 Section 4. Attempt as a violation. An attempt, as
2 defined in 94-4-103, to violate a provision of the election
3 laws of this state is itself a violation of the election
4 laws and is punishable as provided in 94-4-103.
5 Section 5. Aiding and abetting. A person who is
6 legally accountable, as provided in 94-2-107, for the
7 conduct of another which violates a provision of the
8 election laws of this state is also guilty of a violation of
9 that provision.
10 Section 6. Ineligibility to hold office because of
11 conviction. In addition to all other penalties prescribed by
12 law:
13 (1) a candidate who is convicted of violating any
14 provision of Title 23 or Title 37 is ineligible to be a
15 candidate for any public office in the state of Montana for
16 a period of 5 years from the date of conviction;
17 (2) a campaign treasurer who is convicted of violating
18 any provision of Title 23 or Title 37 is ineligible to be a
19 candidate for any public office or to hold the position of
20 campaign treasurer in any campaign in the state of Montana
21 for a period of 5 years from the date of conviction;
22 (3) if an elected official, while a candidate for
23 nomination, was guilty of any act which was wrongful or
24 unlawful or which would be sufficient to cause his removal
25 from office if committed during the general election

1 campaign, he shall, upon conviction, be removed from office
2 in the same manner as though the act had been committed
3 during the general election, even though he may have been
4 regularly elected and was not guilty of a wrongful or
5 unlawful act during the election at which he was elected to
6 office.

7 Section 7. Voiding election. (1) If a court of
8 competent jurisdiction finds that the violation of any
9 provision of Title 23 or Title 37, by any candidate or
10 political committee probably affected the outcome of any
11 election, the result of that election may be held void and a
12 special election held within 60 days of that finding. If
13 the violation occurred during a primary election, the court
14 may direct the appropriate political party to select a new
15 candidate according to the provisions of state law and the
16 custom of the party. Except as provided in subsection (2),
17 an action to void an election shall be commenced within 1
18 year of the date of the election in question.

19 (2) An action to void a bond election shall be
20 commenced within 60 days of the date of the election in
21 question.

22 Section 8. Powers of district court. In any action
23 brought under the election laws of this state, the
24 appropriate district court may enjoin any person to prevent
25 the doing of any prohibited act or to compel the performance

1 of any act required by the election laws.

2 Section 9. Electors and ballots. (1) An elector may
3 not show the contents of his ballot to anyone after it is
4 marked. No elector may place any mark upon the ballot by
5 which it may be identified as the one voted by him.

6 (2) An elector may not receive a ballot from any
7 person other than an election judge and may not vote any
8 ballot except one received from an election judge. No person
9 other than an election judge may deliver a ballot to an
10 elector.

11 (3) No person may solicit an elector to show his
12 ballot after it is marked.

13 (4) An elector who does not vote a ballot delivered to
14 him shall, before leaving the polling place, return the
15 ballot to an election judge.

16 Section 10. Conduct of officers and clerks of
17 election. No officer or clerk of election may:

18 (1) deposit in a ballot box a ballot on which the
19 official stamp, as provided by law, does not appear;

20 (2) prior to putting the ballot of an elector in the
21 ballot box, attempt to find out any name on the ballot or
22 open or examine the folded ballot of an elector;

23 (3) look at any mark made by the voter upon the
24 ballot;

25 (4) make or place any mark or device on any folded

1 ballot with the intent to ascertain the name of any person
2 for whom the elector has voted;

3 (5) allow any person other than the voter to be
4 present at the marking of the ballot except as provided in
5 23-3609 and 23-3812(1); or

6 (6) make a false statement in a certificate regarding
7 affirmation.

8 Section 11. Interference with officials. A person who,
9 in any manner, interferes with the officers holding an
10 election or conducting a canvass so as to prevent the
11 election or canvass from being fairly held and lawfully
12 conducted is guilty of obstruction of a public servant and
13 is punishable as provided in 94-7-302.

14 Section 12. Official misconduct. A person charged with
15 performance of any duty under the provisions of the election
16 laws of this state is guilty of official misconduct and is
17 punishable as provided in 94-7-401 whenever the person:

18 (1) knowingly neglects or refuses to perform that
19 duty; or

20 (2) knowingly and fraudulently acts, in his official
21 capacity, in contravention or violation of any provision of
22 the election laws.

23 Section 13. Tampering with election records and
24 information. A person is guilty of tampering with public
25 records or information and is punishable as provided in

1 94-7-209 whenever the person:

2 (1) suppresses any declaration or certificate of
3 nomination which has been filed;

4 (2) purposely causes the vote on a machine to be
5 incorrectly recorded as to the candidate or ballot issue
6 voted on;

7 (3) in an election return, knowingly adds to or
8 subtracts from the votes actually cast at the election;

9 (4) changes any ballot after the same has been
10 deposited in the ballot box or adds any ballot to those
11 legally polled at an election, either before or after the
12 ballots have been counted, with the purpose of changing the
13 result of the election;

14 (5) causes any name to be placed on the registry lists
15 other than in the manner provided by this title; or

16 (6) changes a poll list or check list.

17 Section 14. Injury to election equipment, materials,
18 and records. A person is guilty of criminal mischief or
19 tampering with public records and information, as
20 appropriate, and is punishable as provided in 94-6-102 or
21 94-7-209, as applicable, whenever the person:

22 (1) prior to or on election day, knowingly defaces or
23 destroys any list of candidates posted in accordance with
24 the provisions of the law;

25 (2) during an election:

1 (a) removes or defaces the cards printed for the
2 instruction of the voters; or

3 (b) removes or destroys any of the supplies or other
4 conveniences placed in the booths or compartments for the
5 purpose of enabling a voter to prepare his ballot;

6 (3) removes any ballots from the polling place before
7 the closing of the polls with the purpose of changing the
8 result of the election;

9 (4) carries away or destroys any poll lists, check
10 lists, ballots, or ballot boxes for the purpose of
11 disrupting or invalidating an election;

12 (5) knowingly detains, mutilates, alters, or destroys
13 any election returns;

14 (6) mutilates, secretes, destroys, or alters election
15 records, except as provided by law;

16 (7) tampers with, disarranges, defaces, injures, or
17 impairs a voting machine;

18 (8) mutilates, injures, or destroys any ballot or
19 appliance used in connection with a voting machine; or

20 (9) fraudulently defaces or destroys a declaration or
21 certificate of nomination.

22 Section 15. Deceptive election practices. A person is
23 guilty of false swearing, unsworn falsification, or
24 tampering with public records or information, as
25 appropriate, and is punishable as provided in 94-7-203,

1 94-7-204, or 94-7-209, as applicable, whenever the person:

2 (1) falsely represents his name or other information
3 required upon his registry card and causes registration with
4 the card;

5 (2) signs a registry card knowingly witnessing any
6 false or misleading statement;

7 (3) knowingly submits a false report or deliberately
8 fails to include information in a report required by Title
9 23 or Title 37;

10 (4) knowingly causes a false statement, certificate,
11 or return of any kind to be signed;

12 (5) falsely makes a declaration or certificate of
13 nomination;

14 (6) files or receives for filing a declaration or
15 certificate of nomination knowing that all or part of the
16 declaration or certificate is false;

17 (7) forges or falsely makes the official endorsement
18 of a ballot;

19 (8) forges or counterfeits returns of an election
20 purporting to have been held at a precinct, municipality, or
21 ward where no election was in fact held;

22 (9) knowingly substitutes forged or counterfeit
23 returns of election in place of the true returns for a
24 precinct, municipality, or ward where an election was held;

25 (10) signs a name other than his own to a petition,

1 signs more than once for the same measure, or signs a
2 petition while not being a qualified elector of the state;
3 or

4 (11) makes a false oath or affidavit where an oath or
5 affidavit is required by law.

6 Section 16. Deceiving an elector. A person who
7 deceives an elector voting under 23-3609 or 23-3812 is
8 guilty of a misdemeanor.

9 Section 17. Fraudulent registration. (1) No person may
10 knowingly cause, procure, or allow himself to be registered
11 in the official register of any election district of any
12 county knowing himself not to be entitled to such
13 registration.

14 (2) No person may falsely personate another and cause
15 the person so personated to be registered.

16 (3) When, on the trial of the person charged with any
17 offense under the provisions of this section, it appears in
18 evidence that the accused stands registered in the register
19 of any county without being qualified for such registration,
20 the court shall order such registration canceled.

21 Section 18. Limits on voting rights. (1) No person may
22 vote who is not entitled to vote. No person may vote more
23 than once at an election.

24 (2) No person may, for any election, apply for a
25 ballot in the name of some other person, whether it be the

1 name of a living, dead, or fictitious person.

2 Section 19. Electioneering. (1) No person may do any
3 electioneering on election day within any polling place or
4 any building in which an election is being held or within
5 200 feet thereof.

6 (2) No officer or clerk of election may do any
7 electioneering on election day.

8 (3) No person may buy, sell, give, or provide a
9 political badge, button, or other insignia to be worn at or
10 about the polls on the day of an election, and no such
11 political badge, button, or other insignia may be worn at or
12 about the polls on an election day.

13 Section 20. Betting on elections. (1) A person who
14 makes, offers, or accepts any bet or wager upon the result
15 of any election; upon the success or failure of any person
16 or candidate; upon the number of votes to be cast, either in
17 the aggregate or for any particular candidate; or upon the
18 vote to be cast by any person is guilty of a misdemeanor.

19 (2) If the bet or wager is made for the purpose of
20 influencing the result of the election, the act of betting
21 is grounds to challenge the bettor's right to vote.

22 (3) A candidate who, before or during an election
23 campaign, makes any bet or wager of anything of pecuniary
24 value; in any manner becomes a party to any bet or wager on
25 the result of the election in his electoral district (or in

1 any part thereof) or on any event or contingency relating to
2 any pending election; or provides money or other valuables
3 to be used by any person in betting or wagering upon the
4 results of any impending election is guilty of a
5 misdemeanor.

6 Section 21. Preventing public meetings of electors.

7 (1) A person who, by threats, intimidations, or violence,
8 willfully hinders or prevents electors from assembling in
9 public meeting for the consideration of public questions is
10 guilty of a misdemeanor.

11 (2) A person who willfully disturbs or breaks up a
12 public meeting of electors or others, lawfully being held
13 for the purpose of considering public questions, or a public
14 school meeting is guilty of a misdemeanor.

15 Section 22. Illegal influence of voters. No person,
16 directly or indirectly, by himself or by any other person on
17 his behalf, for any election, to or for any person on behalf
18 of any elector or to or for any person, in order to induce
19 any elector to vote or refrain from voting, may:

20 (1) give, lend, agree to give or lend, offer, or
21 promise any money, liquor, or valuable consideration or
22 promise or endeavor to procure any money, liquor, or
23 valuable consideration;

24 (2) promise to appoint another person or promise to
25 secure or aid in securing the appointment, nomination, or

1 election of another person to a public or private position
2 or employment or to a position of honor, trust, or
3 emolument, in order to aid or promote his nomination or
4 election, except that he may publicly announce or define
5 what is his choice or purpose in relation to an election in
6 which he may be called to take part, if elected.

7 Section 23. Illegal consideration for voting. No
8 person, directly or indirectly, by himself or by any other
9 person in his behalf may:

10 (1) before or during any election, for voting or
11 agreeing to vote or for refraining or agreeing to refrain
12 from voting at the election or for inducing another to do
13 so:

14 (a) receive, agree, or contract for any money, gift,
15 loan, liquor, valuable consideration, office, place, or
16 employment for himself or any other person; or

17 (b) approach any candidate or agent or person
18 representing or acting on behalf of any candidate at the
19 election and ask for or offer to agree or contract for any
20 money, gift, loan, liquor, valuable consideration, office,
21 place, or employment for himself or any other person;

22 (2) after an election, for having voted or refrained
23 from voting or having induced any other person to vote or
24 refrain from voting at the election:

25 (a) receive any money, gift, loan, valuable

1 consideration, office, place, or employment; or

2 (b) approach any candidate or any agent or person
3 representing or acting on behalf of any candidate and ask
4 for or offer to receive any money, gift, loan, liquor,
5 valuable consideration, office, place, or employment for
6 himself or any other person.

7 Section 24. Illegal assistance to naturalized
8 citizens. No elector, candidate for nomination, nominee, or
9 political committee may pay or offer to pay the fee for any
10 person who is about to or has made his declaration of
11 intention or who has taken out or is about to take out his
12 final papers as a citizen of the United States, with the
13 purpose of influencing that person's vote in an election. No
14 person may receive any money or other valuable thing to pay
15 such fee or permit the same to be paid for him for such a
16 purpose.

17 Section 25. Officers and clerks not to influence
18 voter. No officer or clerk of election, while acting in his
19 official capacity, may, by menace, reward, or promise of
20 reward, induce or attempt to induce any elector to cast a
21 vote contrary to his original intention or desire.

22 Section 26. Coercion or undue influence of voters. (1)
23 No person, directly or indirectly, by himself or any other
24 person in his behalf, in order to induce or compel a person
25 to vote or refrain from voting for any candidate, the ticket

1 of any political party, or any ballot issue before the
2 people, may:

3 (a) use or threaten to use any force, coercion,
4 violence, restraint, or undue influence against any person;
5 or

6 (b) inflict or threaten to inflict, by himself or any
7 other person, any temporal or spiritual injury, damage,
8 harm, or loss upon or against any person.

9 (2) No person who is a minister, preacher, priest, or
10 other church officer or who is an officer of any corporation
11 or organization, religious or otherwise, may, other than by
12 public speech or print, urge, persuade, or command any voter
13 to vote or refrain from voting for or against any candidate,
14 political party ticket, or ballot issue submitted to the
15 people because of his religious duty or the interest of any
16 corporation, church, or other organization.

17 (3) No person may, by abduction, duress, or any
18 fraudulent contrivance, impede or prevent the free exercise
19 of the franchise by any voter at any election or thereby
20 compel, induce, or prevail upon any elector to give or to
21 refrain from giving his vote at any election.

22 (4) No person may, in any manner, interfere with a
23 voter lawfully exercising his right to vote at an election
24 so as to prevent the election from being fairly held and
25 lawfully conducted. No person may obstruct the doors or

1 entries of any polling place.

2 Section 27. Demands and requests of candidates. (1) No
3 person may demand, solicit, request, or invite any payment
4 or contribution for any religious, political, charitable, or
5 other cause or organization supposed to be primarily or
6 principally for the public good from a person who seeks to
7 be or has been nominated or elected to any office in return
8 for political support by the donee. No candidate or elected
9 person may make any payment or contribution if it is
10 demanded or asked for such a purpose during the time he is a
11 candidate for nomination or election to or an incumbent of
12 any office. No payment or contribution for any purpose may
13 be made a condition precedent to the putting of a name on
14 any caucus or convention ballot or nomination paper or
15 petition or to the performance of any duty imposed by law on
16 a political committee.

17 (2) No person may demand, solicit, ask, or invite any
18 candidate to subscribe to the support of any club or
19 organization, buy tickets to any entertainment or ball, or
20 subscribe for or pay for space in any book, program,
21 periodical, or other publication in return for political
22 support by the donee. No candidate may make any such
23 payment or contribution with apparent hope or intent to
24 influence the result of the election.

25 (3) This section does not apply to the soliciting of

1 any business advertisement for insertion in a periodical in
2 which the candidate was regularly advertising prior to his
3 candidacy, to ordinary business advertising, to his regular
4 payment to any organization (religious, charitable, or
5 otherwise) of which he may have been a member or to which he
6 may have been a contributor for more than 6 months before
7 his candidacy, or to ordinary contributions at church
8 services.

9 Section 28. Bribing members of political gatherings.

10 (1) No person may give or offer a bribe to any officer or
11 member of any legislative caucus, political convention, or
12 political gathering of any kind held for the purpose of
13 nominating candidates for offices of honor, trust, or profit
14 in this state, with intent to influence the person to whom
15 such bribe is given or offered to be more favorable to one
16 candidate than another. No person who is a member of any of
17 the bodies mentioned in this section may receive or offer to
18 receive any such bribe.

19 (2) A violation of this section is punishable as
20 provided in 94-7-102(2).

21 Section 29. Improper nominations. (1) No person may
22 pay or promise valuable consideration to another, in any
23 manner or form, for the purpose of inducing him to be or to
24 refrain from or to cease being a candidate, and no person
25 may solicit or receive any payment or promise from another

1 for such purpose.

2 (2) No person, in consideration of any gift, loan,
3 offer, promise, or agreement, as mentioned in subsection
4 (1), may:

5 (a) allow himself to be nominated or refuse to allow
6 himself to be nominated as a candidate at an election;

7 (b) become, by himself or in combination with any
8 other person or persons, a candidate for the purpose of
9 defeating the nomination or election of any other person,
10 without a bona fide intent to obtain the office; or

11 (c) withdraw if he has been so nominated.

12 (3) Upon complaint made to any district court, the
13 judge shall issue a writ of injunction restraining the
14 officer whose duty it is to prepare official ballots for a
15 nominating election from placing the name of a person
16 thereon as a candidate for nomination to any office if the
17 judge is convinced that:

18 (a) the person has sought the nomination or seeks to
19 have his name presented to the voters as a candidate for
20 nomination by any political party for any mercenary or venal
21 consideration or motive; and

22 (b) his candidacy for the nomination is not in good
23 faith.

24 Section 30. Providing money for bribery or corrupt
25 practices. No person may knowingly pay or cause to be paid

1 any money to any person in discharge or repayment of any
2 money wholly or in part expended in bribery or corrupt
3 practices at any election.

4 Section 31. Illegal contributions. Any person who
5 accepts a contribution prohibited by Title 23 or Title 37,
6 R.C.M. 1947; who makes a contribution in excess of the
7 amounts specified in Title 23 or Title 37, R.C.M. 1947; or
8 who makes a contribution in any manner other than that
9 provided in Title 23 or Title 37, R.C.M. 1947, is guilty of
10 an illegal practice and is punishable by a fine not to
11 exceed \$1,000, imprisonment in the county jail for a term
12 not to exceed 6 months, or both, for each separate
13 violation.

14 Section 32. Publications in newspapers and
15 periodicals. (1) No publisher of a newspaper or other
16 periodical may insert, either in its advertising or reading
17 columns, any paid matter which is designed or tends to aid,
18 injure, or defeat any candidate, any political party or
19 organization, or any measure before the people, unless it is
20 stated therein that it is a paid advertisement. The name of
21 the chairman or secretary, the names of the other officers
22 of the political or other organization inserting the same,
23 or the name of some voter who is responsible therefor (with
24 his address) is to appear in such advertisement.

25 (2) No person may pay the owner, editor, publisher, or

1 agent of any newspaper or other periodical to induce him to
2 editorially advocate or oppose any candidate for nomination
3 or election, and no such owner, editor, publisher, or agent
4 may accept such payment.

5 (3) A person who violates this section is guilty of a
6 misdemeanor.

7 Section 33. Election materials not to be anonymous. It
8 is unlawful to write, print, publish, mimeograph, type, or
9 otherwise produce or circulate through the mails or
10 otherwise any letter, circular, bill, dodger, pamphlet,
11 placard, poster, or other document relating to any election
12 or to any candidate, political party, political committee,
13 or ballot issue at any election, unless the same bears on
14 its face the name and address of the person paying for the
15 printing or publishing and the name of the printer and
16 publisher. A person writing, printing, publishing,
17 circulating, posting, mimeographing, typing, or causing to
18 be written, printed, circulated, posted, mimeographed,
19 typed, or published any such letter, bill, placard, dodger,
20 pamphlet, circular, poster, or other document which fails to
21 bear on its face the name and address of the person paying
22 for the printing or publishing and the name of the printer
23 or publisher is guilty of an illegal practice and shall on
24 conviction thereof be punished by a fine of not less than
25 \$10 or more than \$1,000.

1 Section 34. Unlawful acts of employers and employees.

2 (1) It is unlawful for any employer, in paying his employees
3 the salary or wages due them, to enclose their pay in pay
4 envelopes upon which is written or printed the name of any
5 candidate or political mottoes, devices, or arguments
6 containing threats or promises (express or implied)
7 calculated or intended to influence the political opinions
8 or actions of such employees. It is unlawful for an
9 employer to exhibit in a place where his workers or
10 employees may be working any handbill or placard containing
11 any threat, promise, notice, or information that in case any
12 particular ticket or political party, organization, or
13 candidate is elected work in his place or establishment will
14 cease, in whole or in part, or will be continued or
15 increased; his place or establishment will be closed; the
16 salaries or wages of his workers or employees will be
17 reduced or increased; or other threats or promises (express
18 or implied) intended or calculated to influence the
19 political opinions or actions of his workers or employees.
20 This section shall apply to corporations, individuals, and
21 public officers and employees.

22 (2) No person may attempt to coerce, command, or
23 require a public employee to give money, service, or other
24 thing of value to aid or promote any political committee or
25 to aid or promote the nomination or election of any person

1 to public office.

2 (3) No public employee may solicit any money,
3 influence, service, or other thing of value or otherwise aid
4 or promote any political committee or the nomination or
5 election of any person to public office while on the job or
6 at his place of employment. However, nothing in this
7 section is intended to restrict the right of a public
8 employee to express his personal political views.

9 (4) Any person who violates the provisions of this
10 section shall be fined not to exceed \$1,000, be imprisoned
11 in the county jail for a term not to exceed 6 months, or
12 both, for each separate offense.

13 Section 35. Contributions from corporations, public
14 utilities, and others. No corporation, bank, savings bank,
15 cooperative bank, savings and loan association, trust,
16 surety, indemnity, safe deposit, insurance, railroad, street
17 railway, telegraph, telephone, gas, electric light, heat,
18 power, canal, aqueduct, water, cemetery, or crematory
19 company or any company having the right to take or condemn
20 land or to exercise franchises in public ways granted by the
21 state or by any county, city, or town may pay or contribute
22 in order to aid, promote, or prevent the nomination or
23 election of any person or in order to aid or promote the
24 interests, success, or defeat of any political party,
25 organization, or ballot issue. No person may solicit or

1 receive such payment or contribution from such corporation.

2 Section 36. Prohibition of salary increase
3 contribution. A corporation may not increase the salary of
4 any officer or employee or give an emolument to any officer,
5 employee, or other person with the intention that the
6 increase in salary, the emolument, or any part thereof be
7 contributed to support or oppose a candidate or ballot
8 issue.

9 Section 37. Proceedings against corporations. In like
10 manner as prescribed for the contesting of an election, any
11 corporation organized under the laws of or doing business in
12 the state of Montana may be brought into court on the ground
13 of deliberate, serious, and material violation of the
14 provisions of Title 23 or Title 37. The petition shall be
15 filed in the district court in the county where the
16 corporation has its principal office or where the violation
17 of law is averred to have been committed. The corporation,
18 upon conviction, is punishable:

19 (1) if it is organized under the laws of this state,
20 by a fine not to exceed \$10,000, by cancellation of the
21 certificate of incorporation, or by both fine and
22 cancellation; or

23 (2) if it is a foreign corporation, by a fine not to
24 exceed \$10,000, by enjoining the corporation from further
25 transacting business in this state, or by both fine and

1 injunction.

2 Section 38. Transfer of convention credential. No
3 person may invite, offer, or effect the transfer of any
4 convention credential in return for any payment of money or
5 other valuable thing.

6 Section 39. Unlawful for political party to endorse
7 judicial candidate. A political party which endorses a
8 candidate for justice of the supreme court or district court
9 judge, a person who participates in an endorsement by a
10 political party, or a person who acts on behalf of a
11 political party in endorsing a judicial candidate is guilty
12 of a misdemeanor.

13 Section 40. Prohibition on certain public officers
14 from acting as delegates or members of political committees.
15 No holder of a public position, other than an office filled
16 by the voters, may be a delegate to a convention for the
17 election district that elects the officer or board under
18 whom he directly or indirectly holds such position, nor may
19 he be a member of a political committee for such district.

20 Section 41. Section 23-3006, R.C.M. 1947, is amended
21 to read as follows:

22 "23-3006. Method of registering -- absent electors in
23 the United States Service ~~felony provisions~~. (1) An
24 elector may register by appearing before the registrar or
25 deputy registrar in the county in which he resides and ~~by~~:

1 (a) ~~Answering~~ answering any questions asked by the
2 registrar concerning items of information called for by
3 registry cards;

4 (b) ~~Signing~~ signing and verifying or affirming the
5 affidavit or affidavits on ~~the back of~~ the card.

6 (2) An elector may register by mailing, postage paid,
7 a properly completed registry card to the registrar in the
8 county in which he resides.

9 ~~(a)~~ (3) The registrar shall send registry cards for
10 mail registrations to all persons requesting them, whether
11 the application is made in writing or by telephone, and
12 shall, in addition, arrange for the cards to be available
13 from city and town clerks within the county and may arrange
14 for them to be available at other locations within the
15 county. The mail registry card shall be in the form
16 prescribed by the secretary of state.

17 ~~(b)~~ (4) The elector shall complete, sign, and either
18 verify or affirm the registry card before a notary public or
19 other officer empowered to administer oaths, or, complete
20 and sign the card and obtain the signature, address, and
21 voting precinct of at least one registered voter in the
22 county, who shall witness ~~for~~ the facts stated on the
23 registry card.

24 ~~(c)~~ (5) The registration card must be received on or
25 before the day of the close of registration ~~but in no event~~

1 less than ten (10) days before the election.

2 ~~(4)~~ (6) Upon receipt of a properly executed registry
3 card the county registrar shall cause to be sent to the new
4 voter a postcard affirming registration and giving the
5 location of the voter's polling place. On the face of the
6 notification shall be printed the words, "Do Not Forward,
7 Return Postage Guaranteed."

8 ~~(3)~~ (7) Any elector in the United States service who is
9 absent from the state and the county of which he is a
10 resident may register by:

11 (a) Mailing mailing the registry card filled out and
12 signed under oath to the registrar; or

13 (b) Mailing mailing the federal post card application
14 filled out and signed under oath to the registrar.

15 ~~(4) A person is guilty of a felony and upon conviction~~
16 ~~shall be imprisoned in the state prison for not more than~~
17 ~~three (3) years, if:~~

18 ~~(a) He falsely personates another and causes the~~
19 ~~person so personated to be registered; or~~

20 ~~(b) Falsely represents his name or other information~~
21 ~~required upon his registry card, and causes or attempts to~~
22 ~~cause registration with the card; or~~

23 ~~(c) Causes any name to be placed upon the registry~~
24 ~~lists other than in the manner provided by this act; or~~

25 ~~(d) Signs a registry card knowingly witnessing any~~

1 ~~false or misleading statement."~~

2 Section 42. Section 23-3605, R.C.M. 1947, is amended
3 to read as follows:

4 "23-3605. ~~Prohibited conduct~~ Preventing obstructions.
5 ~~(1) An election officer shall not do any electioneering on~~
6 ~~election day.~~

7 ~~(2) A person shall not do any electioneering on~~
8 ~~election day, within any polling place, in any building in~~
9 ~~which an election is being held, or within two hundred (200)~~
10 ~~feet of the building where the polling place is located.~~

11 ~~(3) A person shall not obstruct the entries to a~~
12 ~~polling place.~~

13 ~~(4) An election officer, sheriff, constable, or other~~
14 ~~peace officer may clear the passageway, prevent any~~
15 ~~obstruction, and arrest any person obstructing the~~
16 ~~passageway to a polling place.~~

17 ~~(5) A person shall not remove a ballot from the~~
18 ~~polling place before the closing of the polls.~~

19 ~~(6) A person shall not show the contents of his ballot~~
20 ~~to any other person after it is marked.~~

21 ~~(7) A person shall not solicit the elector to show the~~
22 ~~contents of his ballot; nor shall any person, except the~~
23 ~~election judge, receive from any elector a ballot prepared~~
24 ~~for voting.~~

25 ~~(8) An elector shall not receive a ballot from any~~

~~other person than one of the election judges, nor shall any person other than an election judge deliver a ballot to an elector.~~

~~(9) An elector shall not vote any ballot except one received from the election judges.~~

~~(10) An elector shall not place any mark upon his ballot by which it may be identified as the one voted by him.~~

~~(11) An elector who does not vote a ballot delivered to him shall, before leaving the polling place, return the ballot to the election judges."~~

Section 43. Section 23-3607, R.C.M. 1947, is amended to read as follows:

"23-3607. No person except election judge to put ballot or other object in a ballot box ~~penalty~~. No person, except an election judge ~~shall~~ may put a ballot, any paper resembling a ballot, or anything other than a ballot in a ballot box. ~~A person violating this section is guilty of a misdemeanor. An election judge who knowingly permits a violation of this act is guilty of a felony.~~"

Section 44. Section 23-3812, R.C.M. 1947, is amended to read as follows:

"23-3812. Assistance to illiterate, blind, or physically disabled voters. ~~[(4)]~~ A voter who declares he is unable to vote because he cannot read or write, is blind, or

physically disabled shall be assisted as provided in ~~section~~ 23-3609.

~~(2) A person who deceives an elector voting under this section shall be punished as provided in section 23-4707, R.C.M. 1947."~~

Section 45. Section 23-3822, R.C.M. 1947, is amended to read as follows:

"23-3822. Applicability of election laws in general where not in conflict with this chapter. All laws applicable to elections where voting is not done by machine, and all penalties prescribed for violations of those laws, apply to elections and precincts where voting machines are used if they are not in conflict with the provisions of ~~sections~~ 23-3801 through ~~23-3824~~ 23-3819."

Section 46. Section 23-4746, R.C.M. 1947, is amended to read as follows:

"23-4746. Challenging voters — procedure. (1) Whenever any person's right to vote ~~shall be at a primary election~~ is challenged, and he has taken the oath prescribed by the statutes, ~~and if it is at a nominating election, then it shall be the duty of the clerk~~ a clerk of election ~~to~~ shall write in the pollbooks at the end of ~~each~~ the person's name the words "challenged and sworn," with the name of the challenger. Thereupon ~~the chairman of the board of judges an election judge~~ shall write upon the back of the ballot

1 offered by ~~such the~~ challenged voter the number of his
2 ballot, in order that the ~~same ballot~~ may be identified in
3 any future contest of the results of the election, and be
4 cast out if it ~~shall appear~~ appears to the court to have
5 been for any reason wrongfully or illegally voted for any
6 candidate or on any question.

7 ~~(2) And such~~ This marking of the name of ~~such the~~
8 challenged voter, ~~and~~ and the testimony of any judge or
9 clerk of election in reference thereto, or in reference to
10 the manner in which ~~said the~~ challenged person voted, if
11 ~~said the~~ testimony ~~shall be~~ is given in the course of any
12 contest, investigation, or trial wherein the legality of the
13 vote of such person is questioned for any reason, ~~shall~~ is
14 not ~~be deemed~~ a violation of ~~section 23-4788 [23-4793]~~
15 subsections (2) or (4) [of section 10 of this act]."

16 Section 47. Section 23-4788, R.C.M. 1947, is amended
17 to read as follows:

18 "23-4788. Prosecutions and powers of the county
19 attorney. (1) When the commissioner determines that there
20 appears to be sufficient evidence to justify a civil or
21 criminal prosecution ~~as specified in section 23-4793 under~~
22 the election laws of this state, he shall notify the county
23 attorney of the county in which the alleged violation
24 occurred and shall arrange to transmit to the county
25 attorney all information relevant to the alleged violation.

1 If the county attorney fails to initiate the appropriate
2 civil or criminal action within ~~thirty (30)~~ days after he
3 receives notification of the alleged violation, the
4 commissioner may then initiate the appropriate legal action.

5 (2) A county attorney may at any time prior to the
6 expiration of the ~~thirty (30) day~~ 30-day time period
7 specified in subsection (1) waive his right to prosecute and
8 thereby authorize the commissioner to initiate the
9 appropriate civil or criminal action ~~as specified in~~
10 section 23-4793 under the election law.

11 (3) The provisions of subsection (1) do not apply to a
12 situation in which the alleged violation has been committed
13 by the county attorney of a county. In this instance, the
14 commissioner is authorized to directly prosecute any alleged
15 violation of Title 23, ~~R.C.M. 1947~~ or Title 37.

16 (4) If a prosecution is undertaken by the
17 commissioner, all court costs associated with the
18 prosecution shall be paid by the state of Montana, and all
19 finer and forfeitures imposed pursuant to a prosecution by
20 the commissioner shall be deposited in the state general
21 fund.

22 (5) Nothing in ~~this act~~ Title 23 or Title 37 shall
23 prevent a county attorney from inspecting any records,
24 accounts, or books which must be kept pursuant to the
25 provisions of Title 23, ~~R.C.M. 1947~~ or Title 37, that are

held by ~~any~~ a political committee or candidate involved in an election to be held within the county. However, ~~such~~ the inspections must be conducted during reasonable office hours.

(6) A county attorney shall have the authority to administer oaths and affirmations, i subpoena witnesses, i compel their attendance, i take evidence, i and require the production of any books, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of Title 23, ~~R.C.M. 1947~~ or Title 37."

Section 48. Section 37-109, R.C.M. 1947, is amended to read as follows:

"37-109. Who may petition ~~false~~ ~~signature~~ ~~penalties~~. Each qualified elector of the state of Montana may sign a petition for the referendum, ~~or~~ for the initiative, or for constitutional referendum or constitutional initiative. ~~Any person signing any name other than his own to a petition, or signing one more than once for the same measure at one election, or who is not, at the time of signing a petition, a qualified elector of this state, or any officer or any person willfully violating any provision of this statute, shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars~~

~~(\$500), or by imprisonment in the penitentiary not exceeding two (2) years, or by both."~~

Section 49. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 50. Repealer. Sections 23-2606, 23-3025, 23-3029, 23-3317, 23-3717, 23-3820, 23-3821, 23-4511, 23-4701, 23-4702, 23-4703, 23-4704, 23-4705, 23-4706, 23-4707, 23-4708, 23-4709, 23-4710, 23-4711, 23-4712, 23-4713, 23-4714, 23-4715, 23-4716, 23-4717, 23-4718, 23-4719, 23-4720, 23-4721, 23-4723, 23-4724, 23-4732, 23-4738, 23-4740, 23-4741, 23-4742, 23-4743, 23-4744, 23-4744.1, 23-4745, 23-4747, 23-4748, 23-4749, 23-4751, 23-4752, 23-4753, 23-4754, 23-4756, 23-4768, 23-4773, and 23-4793, R.C.M. 1947, are repealed.

-End-

HOUSE MEMBERS

ROBERT L. MARKS
CHAIRMAN

FRANCIS BARDANOUVE

OSCAR KVAALEN

PAT MC KITTRICK

ROSE WEBER

EXECUTIVE DIRECTOR

PAMELA DUENSING

ADMINISTRATIVE ASSISTANT

ROBERTA MOODY

SUPERVISOR, ALTER SYSTEM



Montana Legislative Council

State Capitol

Helena, 59601

SENATE MEMBERS

NEIL J. LYNCH
VICE CHAIRMAN

GLEN DRAKE

CARROLL GRAHAM

FRANK HAZELBAKER

DIANA DOWLING

DIRECTOR, LEGAL SERVICES;
CODE COMMISSIONER

ROBERT PERSON

DIRECTOR, RESEARCH

LC 0046

1977 Legislature
Code Commissioner Bill - Summary

Senate Bill No. 33

AN ACT TO GENERALLY REVISE, REPEAL, AND RECODIFY THE ELECTION LAWS RELATING TO THE CRIMINAL PROVISIONS FOR ELECTION AND CAMPAIGN PRACTICES.

(This summary does not include discussion of routine form and grammatical changes.)

The penalty sections and the provisions for election and campaign practices of the present election code are in shambles. The patchwork approach to the election code has resulted in considerable duplication and contradiction, both internally and with the criminal code. It is proposed to repeal the bulk of the penalty and practice sections and to enact a new series of provisions. While the result may appear to be a revision, the intent is to recodify. It is simply easier to rewrite than to try to amend.

The principal change has been in the area of punishment. Where possible, the terminology and the penalties of the criminal code are utilized. The basic classification of offenses is misdemeanor unless otherwise specified. Those persons interested in this area should compare the proposed penalty with the present election code penalty and should contact the Legislative Council if they feel something is inappropriate.

Most sections will be enacted in new form, but some are proposed for repeal without replacement. Sections 23-4715, 23-4745, and part of 23-4751 are very broad sections, and it is probably safe to say the sections are violated every day by almost every candidate. The evil they are aimed at: "buying votes" is adequately covered by the bribery provisions of the criminal code and sections 27, 28, and 29 of the proposed election penalty and practice code. Section 23-4732 is adequately covered by 23-2904 and 23-4794. Section 23-4753 is probably unconstitutional and is overly broad. The libel portion of 23-4754 is adequately covered by the criminal code libel provisions.

The code is inadequate with respect to use of the full range of the communications media and revision is needed.

Allocation tables show the disposition of the present code sections and the sources of the proposed code sections.

The amendments to sections 23-3006, 23-3605, 23-3607, 23-3812, and 37-109 are to delete criminal provisions which will be picked up by the proposed enactments.

Section 1. New section, makes clear that conduct prohibited under election laws, which is also prohibited under criminal code, can be prosecuted under either criminal or election statutes, uses criminal code statute of limitations.

Section 2. New section, taken from 94-7-105(5)(b), avoids making criminal a candidate's offering an elector coffee, etc.

Section 3. 23-2606 and 23-4793(3), note that the penalty will be \$500 and/or 6 months as written, 4793(3) had \$1,000 and/or 6 months, the "standard" misdemeanor penalty is being used.

Section 4. New section, makes an attempt to violate election laws itself a violation of election laws so the commissioner of campaign finances and practices can enforce.

Section 5. New section, does for aiding and abetting what (4) does for attempt.

Section 6. Derived from 23-4793(6), 23-3317(2).

Section 7. 23-4793(4), bond election provision is there to protect bond ratings.

Section 8. 23-4793(7).

Section 9. 23-3605 (6) through (11), 23-3607, 23-4714.

Section 10. 23-3717(2)(b) through (2)(e), 23-4706, 23-4707, 23-4713.

Section 11. 23-4703.

Section 12. 23-3029(1), 23-3317(1), 23-3717(2)(a), 23-4701.

Section 13. 23-3006(4)(c), 23-3821, 23-4703, 23-4706, 23-4709, 23-4712. In 13(1) the words "declaration or" have been added to cover nominations where declarations are filed.

Section 14. 23-3029(2), 23-3605(5), 23-3820, 23-4703, 23-4706, 23-4709, 23-4712, 23-4714. See also the remarks in section 13 concerning declarations of nomination.

Section 15. 23-3006(4)(b), (4)(d), 23-3821, 23-4708, 23-4712, 37-109. See also the remarks in section 13 concerning declarations of nomination.

Section 16. 23-3812(2).

Section 17. 23-3006(4)(a), 23-4702.

Section 18. 23-3025, 23-4703, 23-4749.

Section 19. 23-3605(1)(2), 23-4713, 23-4714, 23-4751.

Section 20. 23-4721, 23-4728.

Section 21. 23-4719, 23-4720.

Section 22. 23-4711, 23-4716, 23-4723(1) through (3), 23-4738.

Section 23. 23-4723(4), (6) through (9).

Section 24. 23-4723(13).

Section 25. 23-4711.

Section 26. 23-3605(3), 23-4703, 23-4711, 23-4714, 23-4747.

Section 27. 23-4743.

Section 28. 23-4718.

Section 29. 23-4723(10) through (12), 23-4742, 23-4756.

Section 30. 23-4723(5).

Section 31. 23-4793(2).

Section 32. 23-4752.

Section 33. 23-4754.

Section 34. 23-4724.

Section 35. 23-4744.

Section 36. 23-4744.1.

Section 37. 23-4768. In 37(1) the language concerning charter and franchises of a corporation is modernized.

Section 38. 23-4741.

Section 39. 23-4511.

Section 40. 23-4740.

Sections 41 through 48. These amendments are of two types. Penalty provisions are amended out, but they are picked up by the proposed penalty sections (1) through (40) above. Also, references to "Title 23" are amended to read "Title 23 or Title 37". This will permit a reference to "this title" under recodification. In section 41, 23-3006(b) is amended by deleting the reference to the "back of" the card to reflect the fact that the cards may be signed on either side and 23-3006(e) is amended by deleting the language referring to 10 days prior to election (this language was inserted in anticipation of a poll booth registration act which never passed). In section 46 the reference to chairman is deleted as the election laws do not provide for the selection of such a chairman.

Section 49. This is a general severability section. It is especially important because of the criminal nature of the bill.

Section 50. This is the repealer section. While numerous sections are indicated for repeal, it should be noted that most of the provisions are picked up in sections (1) through (40) above. A disposition table is provided to indicate where present provisions will be found in the proposed penalty code.

DISPOSITION FOR PRACTICE AND PENALTY SECTIONS

<u>PRESENT R.C.M.</u>	<u>SECTION OF PROPOSED BILL</u>
23-2606	3
23-3006(4)(a)	17(2)
23-3006(4)(b)	15(1), 4
23-3006(4)(c)	13(5)
23-3006(4)(d)	15(2)
23-3025	18
23-3029(1)	12
23-3029(2)	14(5), 4, 5
23-3317(1)	12
23-3317(2)	6(3)
23-3605(1)	19(2)
23-3605(2)	19(1)
23-3605(3)	26(4)
23-3605(4)	13-15-110
23-3605(5)	14(9)
23-3605(6)	9(1)
23-3605(7)	9(2), 9(3)
23-3605(8)	9(2)
23-3605(9)	9(2)
23-3605(10)	9(1)
23-3605(11)	9(4)
23-3607(part)	9
23-3717(1)	15(11)
23-3717(2)(a)	12
23-3717(2)(b)	10(6)
23-3717(2)(c)	10(3)
23-3717(2)(d)	10(5)
23-3717(2)(e)	10(3)
23-3812(2)	16
23-3820	14(6), 14(7)
23-3821	13(2), 15(4), 5
23-4511	39
23-4701	12
23-4702	17(1), 17(3)
23-4703	18, 13(3), 13(4), 14(3), 14(4) 11, 26(4)
23-4704	4
23-4705	5
23-4706	4, 5, 10, 13(4), 14(3)
23-4707	10(2), 10(4)
23-4708	15(8), 15(9)
23-4709	13(3), 14(4)
23-4710	5
23-4711	22, 26, 25
23-4712	14(8), 15(5), 15(6), 13(1), 15(7)

23-4713	10(1), 19
23-4714	14(1), 14(2), 19, 26(4), 9
23-4715	Repeal
23-4716	22
23-4717	5
23-4718	28
23-4719	21(1)
23-4720	21(2)
23-4721	20(1)
23-4723(1)	22
23-4723(2)	22
23-4723(3)	22, 4, 5
23-4723(4)	23
23-4723(5)	5, 30
23-4723(6)	23
23-4723(7)	23
23-4723(8)	23
23-4723(9)	23
23-4723(10)	29
23-4723(11)	29, 5
23-4723(12)	29
23-4723(13)	24
23-4724	34
23-4732	Repeal, superseded by 23-4794
23-4738	22(2)
23-4740	40
23-4741	38
23-4742	29(1)
23-4743	27
23-4744	35
23-4744.1	36
23-4745	Repeal
23-4747	26
23-4748	20
23-4749	18
23-4751	19, first part, repeal
23-4752	32
23-4753	Repeal
23-4754	33, libel provisions, repeal
23-4756	29
23-4768	37
23-4773	15(11)
23-4793(1)	15(3)
23-4793(2)	31
23-4793(3)	3
23-4793(4)	7
23-4793(5)	Repeal, use general limits of 94-1-106
23-4793(6)	6
23-4793(7)	8
23-4793(8)	Repeal
23-4793(9)	13-42-124
37-109	5(10)

FORTY-FIFTH LEGISLATIVE SESSION

1977

COMMITTEE ON JUDICIARY

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS <u>DATE</u>	DO NOT PASS <u>DATE</u>	DO PASS AS AMEND. <u>DATE</u>	BE CON- CURRED IN <u>DATE</u>	BE CONC. IN AS AMENDED <u>DATE</u>	BE NOT CON- CURRED IN <u>DATE</u>
S.B. 9	1-3-77	1-11-77	1-15-77			1-15-77			
S.B. 12	1-3-77	2-16-77	2-18-77			2-18-77			
S.B. 20	1-3-77	1-7-77	1-7-77			1-7-77			
S.B. 23	1-11-77	1-18-77	1-29-77		1-29-77				
S.B. 23	Rereferred 2-1-77	2-4-77				2-4-77			
S.B. 27	1-3-77	1-11 & 1-14-77	2-17-77			2-17-77			
S.B. 30	1-3-77	1-11, 1-13, 1-17-77	1-17-77			1-20-77			
S.B. 32	1-3-77	Duplicate of S.B. 40	2-10-77		2-10-77				
S.B. 33	1-3-77	1-11 & 1-14-77	2-17-77			2-17-77			
S.B. 34	1-3-77	1-17, 1-18, 1-28, 1-29-77	1-31-77			1-31-77			
S.B. 37	1-4-77	1-14-77	2-10-77			2-10-77			
S.B. 40	1-5-77	1-12-77	1-20-77	1-20-77					
S.B. 41	1-5-77	1-12 & 1-20-77	2-18-77			2-18-77			
S.B. 42	1-5-77	1-12 & 1-20-77	1-20-77	1-20-77					
S.B. 43	1-5-77	1-12 & 1-20-77	1-20-77			1-20-77			
S.B. 53	1-6-77	1-12 & 1-20-77	1-20-77	1-20-77					

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 11, 1977

Meeting of the Judiciary Committee was called to order by Chairman Jean Turnage on the above date in Room 442 of the State Capitol Building.

ROLL CALL: All members of the committee were present.

The following witnesses were present to testify:

Senator Carroll Graham - District 29
Dave Cogley, attorney - Legislative Council
Senator Chet Blaylock - District 35
Pat Hooks, attorney - Townsend, Montana
Margaret S. Davis, Helena - League of Women Voters of Montana
Larry Weinberg, attorney - Legislative Council
John Hanson - Comm. of Campaign Finances and Practices
Mike Pichette - Montana Democratic Party

CONSIDERATION OF SENATE BILL 9:

Senator Graham told the committee that he had been picked by the Legislative Council to carry this recodification bill. He then introduced Dave Cogley, an attorney with the Legislative Council, who went over the bill section by section for the committee and also noted the changes which they had made, their reasons for doing so, and answered questions of the committee.

Chairman Turnage thanked him for having appeared on this bill. He then asked him if he was satisfied that what has been done in the drafting of this bill will not liberalize or enlarge gambling. Dave Cogley said that there is no intent to open the door to enlarge legalized gambling in the drafting of this bill.

The Chairman then asked the Judiciary Committee's attorney, Lon Maxwell, if he felt this bill was satisfactory. He said that Dave Cogley had pretty well covered the ground in this bill and that he does not feel this bill will liberalize the state gambling laws.

CONSIDERATION OF SENATE BILL 33:

Pat Hooks, attorney, appeared as a proponent of this bill, but wished to have it amended on page 21, section 35, line 25, by striking ", or ballot issue". He presented the committee with a copy of Judge Battin's Amended Opinion & Order in the case of C & C Plywood, Corp. et al. v. John N. Hanson, Commissioner of Campaign Finances and Practices of the State of Montana. (Exhibit #1)

Margaret Davis, Helena, representing the League of Women Voters of Montana, appeared as a proponent of the bill with the words "or ballot issue" left in on page 21, section 35, line 25. She presented a written statement to the committee on S.B. 33. (Exhibit #2).

Joan Mayer, attorney for the Legislative Council, told the committee that they are not supposed to make substantive changes in recodifying. In this case, she felt that section 35 does not belong in the recodification bill because it is still in the courts and is only tentatively unconstitutional.

Mike Pichette of the Montana Democratic Party appeared as an opponent of S.B. 33, echoing the opinion of Joan Mayer of the Legislative Council and stating that Judge Battin's decision may be overturned.

John Hanson, Commissioner of Campaign Finances and Practices of the state of Montana, also appeared as an opponent of S.B. 33.

Pat Hooks requested time to rebut and Chairman Turnage granted him this privilege. He then asked the committee to note the attachment to the bill on the last page and stated that, by deleting section 35 entirely and also the repealer in section 50, line 15, "23-4744," the law would remain as it now stands subject to the appeal currently pending.

At this time, Senator Blaylock closed on S.B. 33, stating that it seems the bill should be left as is for now as it is a recodification bill.

Chairman Turnage asked Joan Mayer, Legislative Council attorney assigned to the Judiciary Committee, to work up something on the repealer. He said he thought it sensible to leave the law as is at this time, and requested a motion.

Senator Towe moved to delete section 35, page 21, and to delete the repealer clause on page 32, section 50, line 15, "23-4744,". The motion carried unanimously.

CONSIDERATION OF SENATE BILL 30:

Joan Mayer, Legislative Council attorney, explained the changes she had made in recodifying. She stated that on page 6 she had struck lines 1 through 5 as they were covered in §95-1105 and felt it to be a minor change and §95-1105 is broader.

Chairman Turnage said he did not believe it should be struck altogether. It was suggested that "or adjoining county" should be inserted.

CONSIDERATION OF SENATE BILL 27:

This is the recodification bill for general election laws. Larry Weinberg, attorney for the Legislative Council, was present to explain any changes to the committee. He went through the first six sections, but it was necessary to stop at section 7 as many of the committee members had to attend other meetings at 11:00 a.m..

The committee secretary is to notify John Hanson and the Secretary of States office of the date set for the hearing again on S.B. 27 and 33.

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

SEP 22 1976

JOHN E. PEDERSON, CLERK
By
Deputy Clerk

C & C PLYWOOD CORPORATION, an Oregon corporation,
BUTTE CHAMBER OF COMMERCE, a Montana corpora-
tion, CONRAD NATIONAL BANK OF KALISPELL, a
national bank, F. H. STOLTZ LAND AND LUMBER
CO., a Montana corporation, KALISPELL CHAMBER
OF COMMERCE, a Montana corporation, MONTANA
ASSOCIATED UTILITIES, INC., a Montana cor-
poration, MONTANA CHAMBER OF COMMERCE, a
Montana corporation, MONTANA-DAKOTA UTILITIES
CO., a Delaware corporation, MONTANA HARDWARE
AND IMPLEMENT ASSOCIATION, a Montana corporation,
MONTANA MOTOR TRANSPORT ASSOCIATION, a Montana
corporation, MONTANA POWER COMPANY, a Montana
corporation, MONTANA STOCKGROWERS ASSOCIATION,
INCORPORATED, a Montana corporation, MONTANA
TAXPAYERS ASSOCIATION, a Montana corporation,
MONTANA WOOLGROWERS ASSOCIATION, a Montana
corporation, MOUNTAIN STATES TELEPHONE AND
TELEGRAPH, a Colorado corporation, PACIFIC
POWER & LIGHT, a Maine corporation, SIEBEN
RANCH COMPANY, INC., a Montana corporation,

Plaintiffs,

-vs-

JOHN N. HANSON, Commissioner of Campaign
Finances and Practices of the State of
Montana,

Defendant.

AMENDED
OPINION
AND ORDER

This case involves a request for declaratory relief
seeking to have a portion of § 23-4744, Revised Codes of Montana,
1947, declared unconstitutional on the ground that it violates
the First and Fourteenth Amendments to the United States
Constitution.

I. _____

BACKGROUND FACTS:

To fully understand the import of this action, it
is necessary to set forth in some detail the facts that have
resulted in the case being before this Court.

The League of Women Voters of Montana

SB 32

11 January 77

Anyone having plowed through the election codes as a candidate or interested voter would agree with the Code Commission's description of them as "a shambles".

The League of Women Voters of Montana would not ordinarily testify on a recodification, but the new arrangement of campaign no-no's is to be commended.

We would also hope that the committee consider Section 35 regarding corporations and ballot issues in light of recent court decisions.

*page 21,
line 25*

Margaret Davis

Margaret S. Davis
917 Harrison, Helena, Montana
League of Women Voters of Montana

ROLL CALL

JUDICIARY

COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date _____

11/11/77

[illegible]

DATE

7/1/76

COMMITTEE ON

Judiciary

BILL NO.

VISITOR'S REGISTER

NAME

REPRESENTING

Check One

Support Oppose

Arthur Dwyer

League of Women Voters

Margaret Shultz

" " " "

SB 33

James Francis

Intern for coin machine lobbyist

Wayne Cagle

Code Commissioner

SB 9

Gene Cagione

Montana Dakota Settlers

Pat Hoaks

MYSELF

SB-2

John Stevens

Mont. River

Helen Williams

ANACAPDA Co.

SB 31

John Thompson

" "

SB 31

John Dwyer

Leg. Council

SB 30, 31

John Dwyer

Leg Council

27-32

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 14, 1977

The meeting of the Senate Committee on Judiciary was called to order by Chairman Turnage at 9:30 a.m. on the above date in Room 442 of the State Capitol Building.

ROLL CALL:

All members of the committee were present at this meeting.

CONSIDERATION OF SENATE BILL 37:

Chairman Turnage placed Senate Bill 37 before the committee to be considered first and requested Roger Tippy, attorney for the Legislative Council, to make the initial presentation on this bill. S.B. 37 has to do with the Montana Administrative Code rules. Mr. Tippy explained to the committee that the Administrative Code Committee felt this bill was necessary because there is constant bickering about the intent of legislation.

Senator Roskie, District 21, co-sponsor of S.B. 37, spoke briefly on the bill, saying that the bill had been written because there should be more expression of intent on legislation.

At this time, Chairman Turnage told the committee, that it had been brought to the attention of the Rules Committee that this bill would place an additional burden on the Journal because of lengthy typing. Mr. Tippy said that this matter had been taken care of by the drafting of a revised rule for the Rules Committee regarding the typing of the legislative intent.

Steve Williams, attorney for the Anaconda Company, appeared in support of S.B. 37, stating that he believes there should be a controlling body over the many regulations of the state and that it should be the legislature. Mr. Williams proposed to add a new paragraph to S.B. 37 which would help people going before state agencies by cutting down the number of court actions necessary. (See attachment #1)

Bob Biggerstaff, representing the Montana Association of Conservation Districts, said that they support S.B. 37, as did Glen Drake who represents the League of Cities and Towns. Mr. Drake noted that cities and towns are greatly affected by administrative rules and, therefore, his association fully supports this bill.

There being no more proponents of S.B. 37, the Chairman called for the opponents to testify on this bill. The first opponent was Robert Lohn, staff attorney for Governor Judge, who said they support the statement of intent, but that they are afraid that it will lead to a new set of "laws of intent" and that the state has too many laws now, such as the Revised Codes of Montana and the Montana Administrative Codes.

The next opponent appearing was Mike Young, general counsel for the Department of Administration, who told the committee that what this bill is trying to do is actually already in the law. He further said that section 5 of S.B. 37 violates the law of exhausting administrative remedies.

Robert Corcoran, counsel with the Department of Revenue, an opponent of S.B. 37, told the committee that the problems the Department of Revenue have are enormous, because of the many different types of taxation laws they administer. Further, he stated that also because of this, the Department of Revenue writes a great amount of regulations -- more than any other state agency. He supported Mr. Lohn's testimony fully.

At this time, there being no more witnesses on S.B. 37, the Chairman thanked those presenting testimony.

CONSIDERATION OF SENATE BILL 27:

Larry Weinberg, attorney with the Legislative Council, was next called upon to explain S.B. 27. However, it was suggested that there might be some witnesses on this bill present who wished to speak. Mike Pichette, Montana Democratic Party, a member of the advisory committee to the Commissioner on Campaign Finances and Practices, told the committee that they support S.B. 27. Chairman Turnage asked Mr. Pichette if he had any testimony to offer on S.B. 33 which is a companion bill. Mr. Pichette offered the committee two amendments for S.B. 33, one concerned section 1 and the other was on section 22. (See attachments 2 and 3) Sen. Roberts asked if the second amendment offered was in the nature of recodification. Mr. Pichette said that it was.

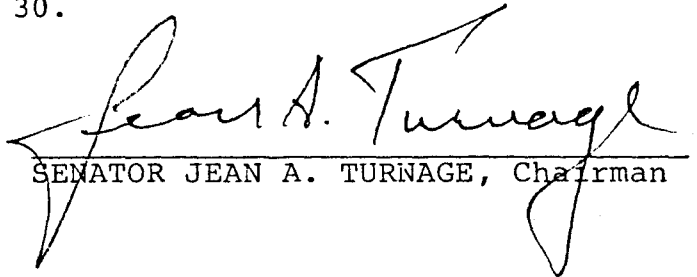
✓ Marion Campbell of the Secretary of State's office asked ✓ that the committee note that, on page 6 of the green sheets attached to S.B. 33, section 23-47-53 is to be repealed. This section now prohibits advertising on election day. Upon reading the section referred to, Senators Regan and Warden expressed the belief that this was a substantive change. Mr. Weinberg said that he believes ✓ it is. — At this time he was complimented by Mr. Pichette on the herculon job he had done on S.B. 27 and 33. —

The committee then returned to consideration of S.B. 33 with Mr. Weinberg explaining it section by section. After he had reviewed section 2, the committee discussed the substantive changes being made -- which they believed necessary for good legislation -- and decided that this bill should not be brought out as a recodification bill.

Senator Towe moved to amend the title on page 1, line 4, after the word "GENERALLY" by inserting the words "AND SUBSTANTIVELY". The motion carried unanimously.

Mr. Weinberg then proceeded with the explanation of sections 3, 4 and 5. At this time Senator Blaylock, sponsor of S.B. 27 and 33, appeared in committee, and Chairman Turnage explained to him that the committee had made S.B. 33 a general bill rather than treat it as a recodification bill. (Senator Blaylock agreed with the committee's decision on S.B. 33.)

Time being exhausted for this meeting, the committee adjourned at 11:05 a.m. to reconvene at 9:30 a.m. on Saturday, January 15, 1977, to consider S.B. 34 and 30.


SENATOR JEAN A. TURNAGE, Chairman

Senate Judiciary Committee
January 14, 1977

S.B. 33

Amend S.B. 33, Section 1, subsection (2), lines 14-16 by
deleting all material after the comma in line 14 and
substitute in lieu thereof the following:

any action brought pursuant to the provisions
of Title 23 and Title 37 must be commenced
within 4 years after the date when the viola-
tion occurred.

* * * * *

This amendment would reinstate the current statute of
limitations (4 years) on election law violations from
23-4793(5) and delete the proposed one-year statute of
limitations.

Amendment offered and approved by the Advisory Committee to
the Commissioner of Campaign Finances and Practices.

Testimony by J. Michael Pichette
Box 802, Helena Mt.

(Attachment #2)

Senate Judiciary Committee
January 14, 1977

S.B. 33

Amend S.B.33, Section 22, line 19 by deleting the word "or"
and substituting in its place a comma and after the word
"voting," and before the word "may" adding the following:

or to vote for or against any particular
candidate, political party ticket, or
ballot issue,

* * * * *

This amendment would restore language from 23-4745, the
"treating" statute which will be repealed by S.B. 33. The
effect will be to restore the prohibition against using
illegal influence to induce a voter not only to vote or not
vote, but to vote for or against specific candidates,
parties or ballot issues.

Amendment offered and approved by the Advisory Committee to
the Commissioner of Campaign Finances and Practices.

Testimony by J. Michael Pichette
Box 802, Helena Mt.

(Attachment #3)

ROLL CALL

COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date

[illegible]

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
February 17, 1977

The meeting of this committee was called to order at 8:00 a.m. by Senator Turnage, Chairman, in Room 415 of the State Capitol Building.

ROLL CALL:

All members of the committee were present except Senator Regan who was excused until 9:30 a.m..

The first order of business before the committee was to act on Senate Bills.

EXECUTIVE SESSION

Senate bills were acted on as follows:

(Consideration of S.B. 33 was continued from 1/14/77)

S.B. 33 - Senator Olson moved to strike section 35, page 22, in its entirety; and to amend section 41, page 25, line 1, following "{", by striking "10 days before the election". The motion carried unanimously. Senator Roberts then moved that S.B. 33 as amended DO PASS. The motion carried unanimously.

S.B. 27 - Senator Towe moved to amend page 11, section 10, lines 23 and 24 by striking subsection (e) in its entirety and inserting "(e) whenever the incarceration of an elector in a penal institution for a felony conviction is legally established; or". The motion carried unanimously.

Senator Towe then moved to amend page 17, section 14, line 22, and page 26, section 19, line 11, following "than" by inserting "a legislator or a". The motion carried unanimously.

Senator Olson moved to amend page 34, section 27, line 14, by striking "marking by electors --". The motion carried unanimously.

Senator Towe moved to amend page 53, section 44, line 4, following "rejected" by striking "if they do not" and inserting in lieu thereof "because of failure to"; and to strike section 66 on page 79 in its entirety and renumber the subsequent sections. The motion carried unanimously.

Senator Towe then moved that S.B. 27 as amended DO PASS. The motion carried unanimously.

COMMITTEE HEARING

9:30 a.m. - At this time the committee commenced hearing the bills scheduled for this date. Senator Regan was present and Senator Murray was excused to attend another meeting.

April 17

COMMITTEE

Date 2-17-71

[illegible]

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 31, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, on the above date at 9:30 a.m. in Room 442 of the State Capitol Building.

ROLL CALL:

All members of the committee were present with the exception of Senator Murray who was excused.

CONSIDERATION OF SENATE BILL 215:

Senator Turnage explained why he had sponsored this bill and that he was now proposing that it be amended because the "buffalo" should actually be called "bison".

The proposed amendments were as follows:

1. Amend title, lines 4 and 5.
Strike: "TO MAKE IT A MISDEMEANOR TO ALLOW BUFFALO TO RUN AT LARGE AND"
2. Amend title, line 6.
Strike: "THEREBY"
Insert: "BY TRESPASSING BISON"
3. Amend page 1, section 1, lines 9 through 15.
Strike: section 1 in its entirety
4. Amend page 1, section 2, lines 16 through 18.
Strike: section 2 in its entirety
5. Amend page 1, section 3, lines 19 through 22.
Strike: section 3 in its entirety
6. Amend page 1, section 4, line 23.
Following: "Section"
Strike: "4"
Insert: "1"
7. Amend page 2, section 4, line 1.
Strike: "buffalo"
Insert: "bison"

Senator Towe moved adoption of the above amendments. Motion carried. Senator Towe then moved that S.B. 215 as amended DO PASS. The motion carried unanimously.

CONSIDERATION OF SENATE BILL 156:

Amendments suggested by Leonard C. Larson, Deputy Secretary of

State, at the request of Senator Turnage, Chairman, were as follows:

1. Amend page 13, section 18, line 11.

Following: "certificate"

Strike: "have"

Insert: "had"

2. Amend page 36.

Following: line 14

Insert: "Section 64. Foreign corporate general partners to procure certificate of authority. Each general partner, if a foreign corporation or business trust, in a domestic limited partnership or in a foreign limited partnership required by this act to register with the secretary of state shall procure a certificate of authority to transact business in Montana as required by chapters 22 and 25 of Title 15.

"Section 65. Fees for filing documents and issuing certificates. The secretary of state shall charge and collect the following fees:

(a) for filing any instrument under this act, \$20;

(b) for furnishing any certificate on the effect of a filing under this act, \$5;

(c) for furnishing a certified copy of any document, instrument, or paper relating to a limited partnership, 50 cents per page and \$2 for certificate and affixing seal."

Renumber: the subsequent section. (See Exhibit #1)

The above amendments were approved by Joan Mayer, attorney for Legislative Council, attached to this committee.

DISPOSITION OF SENATE BILL 156:

Senator Towe moved the adoption of the amendments if approved by Joan; and since they were approved, he then moved that S.B. 156 as amended DO PASS. The motion carried unanimously.

CONSIDERATION OF SENATE BILL 33:

Larry Weinberg, attorney for the Legislative Council and drafter of this recodification bill, was present in committee to explain the changes he had made. Since at the meeting on January 14, 1977, he had gotten through section 5, he began with section 6 and proceeded section by section.

Senator Towe moved to amend page 2, section 6, line 14, after "37" and on line 18, also after "37" by inserting in both places the following "except section 15, subsection 10, page 8". The motion carried.

Senator Towe then moved to rescind the previous motion. This motion carried unanimously.

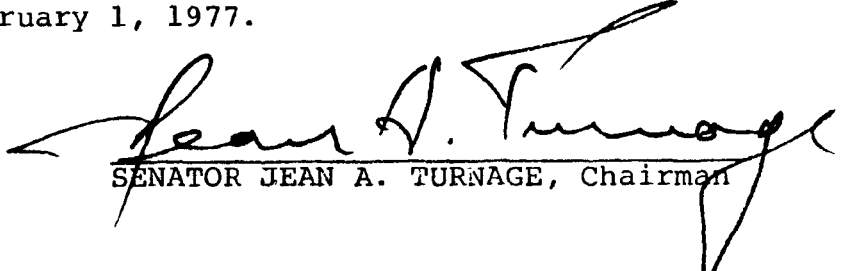
Senator Towe next moved to amend page 2, section 6, subsection (1), lines 15 and 16, after "Montana" by striking "for a period of 5 years from the date of conviction" and inserting "until his final discharge from state supervision";

And to further amend page 2, section 6, subsection (2), line 21, by striking "for a period of 5 years from the date of conviction" and inserting "until his final discharge from state supervision".

The above motions carried unanimously.

The committee then discussed sections 10 through 18 at length with Mr. Weinberg, and proceeded through section 19. They will begin with section 20 when they again have an opportunity to return to consideration of Senate Bill 33.

There being no further time for consideration of bills at this meeting, the committee adjourned at 11:00 a.m. to reconvene in the Governor's Reception Room to hear SJR 9 (rescinding of the E.R.A.) at 9:30 a.m. on February 1, 1977.



SENATOR JEAN A. TURNAGE, Chairman

JUDICIARY COMMITTEE

Date 1-31-77

[illegible]

JUDICIARY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 33	revise, repeal & recodify election laws relating to criminal provisions for election & campaign practices	2-24	Blaylock	3-11 Friday	concurred in	3/22
SB 335	amend-endangering welfare of children, make it clearly applicable to all persons, whether have custody, etc.	2-25	Turnage	3-11 Friday	concurred	3-11
SB 41	provide for approval of attorney fees in connection with claims against gvt entities	2-26	Towe	3-8 Tuesday	concurred	3-10
SB 376	amend water use act to clarify water use rights, etc.	2-26	Boylan	3-15 Tuesday	table	3/25
SJR 16	urging supreme court to rescind its rule requiring aspirants to Montana bar to hold degree from accredited law school	2-26	Brown	3-14 Monday	no recommendation	3-17
SB 187	avoid possibility of dbl jeopardy & to cause administrative penalty to be effective	3-2	Lee	3-14 Monday	concurred	3-16

JUDICIARY COMMITTEE
March 11, 1977

The regularly scheduled meeting of the House Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. Friday, March 11 in room 436 of the Capitol Building, Helena, Montana. All members were present with the exception of Representatives Dussault, Colburn, Conroy and Kennerly.

Scheduled for hearing were Senate Bills 33, 156, 335, 346, 396, 397, and 437.

SENATE BILL #437

SENATOR DUNKLE, DISTRICT #15:

This bill will establish a joint underwriting association for medical liability insurance. Insurance is expensive and becoming more difficult to procure. There are only a few companies that write malpractice now, in Montana. One is thinking of stopping and another as there insurance policies come to an end, will stop writing. This bill sets up a joint underwriting association only if there are no opportunities to get it from a private company. There is no loss to the insurance companies. He talked about the problems the doctors are having and what a major lawsuit might do to a doctor. This association would not interfere with any private company because it would be only as long as there are no insurance companies writing in Montana.

PROPOSER, GARY NEELY, MONTANA MEDICAL ASSOCIATION:

I would only add that the bill expires on December 31, 1979 even if the market does not exist. There is always a time lag in the implementation of self-insurance. He presented the committee with a copy of the position paper of the medical association. (attached)

CHAIRMAN SCULLY:

When does the current contract with Aetna run out?

MR. NEELY:

The end of this year. I am not sure but I do know many physicians are buying on a monthly basis. They may continue coverage next year but there is no legal contract to that effect.

No other proponents and no opponents, the hearing closed on SB 437.

SENATE BILL #335:

SENATOR TURNAGE, DISTRICT #13:

This bill will amend the law pertaining to the welfare of children, redefining the scope of the offense. He mentioned how the change will be in the section contributing to the delinquency of a minor. The violation of the duty of care, protection, and support, cruel treatment, etc.

There were no other proponents and no opponents.

The hearing closed on Senate Bill #335.

March 11, 1977

Page 3

THE HEARING OPENED ON SENATE BILL #33.

SENATOR BLAYLOCK was not present but had asked that Larry Weinberg explain the bill.

LARRY WEINBERG:

This is a recod bill. We need one amendment in the title of the bill. There are two election recod bills, this one and SB 27. Most of the election material is from the 1895 code and has gone through some renumbering. I tried to parallel the criminal code as much as possible. The principle changes in the bill were put there by the Senate Judiciary Committee.

He went over the amendments put in by the Senate, title & page 2, line 15 and lines 17 - 18 and 24 - 25.

Title 33 and 37 will be put together in the recod. In section 22 the language was so bad that we would have had no idea what it would look like so we rewrote the whole thing. In the bribery section of the bill, the language inserted is present language. On page 21, section 35, the contribution from corporations section which is presently being litigated. What the committee did is delete the section until the court has reached a decision.

Section 40, page 24. A series of actual amendments to clarify and wipe out language that was picked up in the first 39 sections of the bill. On the last page, page 32, I tried to make the law constitutional as it was out of whack with the present criminal section and I was trying to bring it into alignment.

JOHN HANSON, COMMISSIONER OF CAMPAIGN PRACTICES:

We don't have any opposition to the bill but we feel there are some changes that should be covered by this committee. He listed some proposed amendments he thought the committee should consider.

Page 1, section 1, subsection (2).

Page 2, section 6, lines 7-8, lines 23, 24, & 25.

subsection (5), 23-43-93 related to the campaign practices revision. page 8, subsection 3-4, deceptive election practices, these offenses can be prosecuted in 94-7-209.

I feel the 1 year limit is too little for the statute of limitations

Section 6, there is a question of constitutionality, statute of limitations.

Section 19, page 10.

The recod attempt dealing with electioneering, there are 3 statutes dealing with this, lines 6 & 7, section 22, page 11. Also, on page 19, section 33, dealing with criminal law, there is a question of constitutionality about that.

March 11, 1977
Page 4

JOANN WOODGERD, SECRETARY OF STATES OFFICE:

HJR 14 has passed the house and we feel that it will pass the senate and we will have a complete revision of the election laws. It would be better if the other bill would pass, and then we could kill this one.

JOHN HANSON:

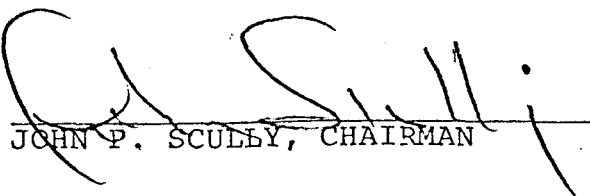
We will go ahead with a revision as we are charged to do by our own statute and present to the next legislature. I feel that if this bill is passed it might influence the fact, and this bill might be accepted which is not a revision.

After a question and answer period the hearing closed on SB 33.

CHAIRMAN SCULLY:

Senator Thomas has asked that we kill Senate Bill #346.

The meeting adjourned at 9:00 a.m. and the committee went into executive session.


JOHN P. SCULLY, CHAIRMAN


Mary Ellen Connelly, Secretary

Good M

COMMITTEE

Date 2-17-77

[illegible]

JUDICIARY COMMITTEE
EXECUTIVE SESSION

March 22, 1977

The executive session of the House Judiciary Committee was called to order by Chairman Scully at 8:45 a.m. in room 436 of the Capitol Building, Helena, Montana. All members were present except the following: Representatives Colburn, Conroy, Courtney, Kennerly and Seifert.

HOUSE JOINT RESOLUTION #93:

REPRESENTATIVE LORY moved "do not pass". REPRESENTATIVE DUSSAULT moved a sub-stitute motion "do pass". The motion was tied with the bill going out of committee with no recommendation.

SENATE BILL #33:

REPRESENTATIVE LORY reported from the sub-committee that the bill be concurred in, and moved the motion. The motion carried with the vote unanimous.

SENATE BILL #37:

REPRESENTATIVE RAMIREZ reported he did not have the amendments ready for presentation to the committee. He will have them Friday.

SENATE BILL #34:

REPRESENTATIVE LORY moved that the sub-committee report of "be concurred in" be adopted. The motion carried with the vote unanimous.

SENATE BILL #53:

REPRESENTATIVE KEYSER moved to amend. The amendments as proposed were voted upon and the motion carried with vote unanimous. REPRESENTATIVE LORY moved "be concurred in as amended". The motion carried with the vote unanimous. (amendments attached)

SENATE BILL #216:

REPRESENTATIVE DAY reported the water sub-committee had voted to table this bill. The Judiciary Committee accepted the committee report to table and the motion carried with the vote unanimous.

SENATE BILLS #413 and 419:

These bills are still in sub-committee for work and study. The committee will report on Friday.

SENATE BILL #385:

REPRESENTATIVE KEYSER moved be concurred in. The motion carried with the vote unanimous.

REPRESENTATIVE HOLMES came in late to committee and moved the committee reconsider its action on Senate Bill #385. The motion failed with only one yes vote. Representative Holmes asked that she be recorded as a no vote on this bill.

SENATE BILL #27:

REPRESENTATIVE RAMIREZ moved to amend on page 36. The motion carried with the vote unanimous. REPRESENTATIVE LORY moved to amend on pages

MEMBERS OF HOUSE JUDICIARY COMMITTEE
45th Assembly
HOUSE OF REPRESENTATIVES

REPRESENTATIVE WILLIAM BAETH

REPRESENTATIVE GARY COLBURN

REPRESENTATIVE TOM CONROY

REPRESENTATIVE JIM COURTNEY

REPRESENTATIVE WILLIE DAY

REPRESENTATIVE ANN MARY DUSSAULT

REPRESENTATIVE BILL HAND

REPRESENTATIVE POLLY HOLMES

REPRESENTATIVE LEO KENNERLY

REPRESENTATIVE RALPH EUDAILY

REPRESENTATIVE KERRY KEYSER

REPRESENTATIVE EARL LORY

REPRESENTATIVE JEAN McLANE

REPRESENTATIVE JACK RAMIREZ

REPRESENTATIVE AUDREY ROTH

REPRESENTATIVE CARL SEIFERT

REPRESENTATIVE WES TEAGUE - Vice-chairman

REPRESENTATIVE JOHN SCULLY - Chairman

SENATE BILL NO. 33
INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY AND
SUBSTANTIATIVELY REVISE, REPEAL, AND RECODIFY THE ELECTION LAWS
RELATING TO THE CRIMINAL PROVISIONS FOR ELECTION AND
CAMPAIGN PRACTICES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Election code not to supersede criminal
code -- statute of limitations. (1) The penalty provisions
of the election laws of this state are intended to
supplement and not to supersede the provisions of the
Montana Criminal Code.

(2) Unless otherwise provided, the general time
limitations for prosecutions for violations of the election
laws are those specified in 94-1-106.

Section 2. Trivial benefits not covered by criminal
provisions. It is not the intent of the election laws of
this state to criminalize activities involving trivial
benefits incidental to the campaign process which involve no
substantial risk of undermining the election process.

Section 3. Violations as misdemeanor. A person who
knowingly violates a provision of the election laws of this
state for which no other penalty is specified is guilty of a

misdemeanor.

Section 4. Attempt as a violation. An attempt, as
defined in 94-4-103, to violate a provision of the election
laws of this state is itself a violation of the election
laws and is punishable as provided in 94-4-103.

Section 5. Aiding and abetting. A person who is
legally accountable, as provided in 94-2-107, for the
conduct of another which violates a provision of the
election laws of this state is also guilty of a violation of
that provision.

Section 6. Ineligibility to hold office because of
conviction. In addition to all other penalties prescribed by
law:

(1) a candidate who is convicted of violating any
provision of Title 23 or Title 37, EXCEPT [SECTION 15](10),
is ineligible to be a candidate for any public office in the
state of Montana ~~for a period of 5 years from the date of~~
~~conviction~~ UNTIL HIS FINAL DISCHARGE FROM STATE SUPERVISION;

(2) a campaign treasurer who is convicted of violating
any provision of Title 23 or Title 37, EXCEPT [SECTION
15](10), is ineligible to be a candidate for any public
office or to hold the position of campaign treasurer in any
campaign in the state of Montana ~~for a period of 5 years~~
~~from the date of conviction~~ UNTIL HIS FINAL DISCHARGE FROM
STATE SUPERVISION;

1 (3) if an elected official, while a candidate for
 2 nomination, was guilty of any act which was wrongful or
 3 unlawful or which would be sufficient to cause his removal
 4 from office if committed during the general election
 5 campaign, he shall, upon conviction, be removed from office
 6 in the same manner as though the act had been committed
 7 during the general election, even though he may have been
 8 regularly elected and was not guilty of a wrongful or
 9 unlawful act during the election at which he was elected to
 10 office.

11 Section 7. Voiding election. (1) If a court of
 12 competent jurisdiction finds that the violation of any
 13 provision of Title 23 or Title 37, by any candidate or
 14 political committee probably affected the outcome of any
 15 election, the result of that election may be held void and a
 16 special election held within 60 days of that finding. If
 17 the violation occurred during a primary election, the court
 18 may direct the appropriate political party to select a new
 19 candidate according to the provisions of state law and the
 20 custom of the party. Except as provided in subsection (2),
 21 an action to void an election shall be commenced within 1
 22 year of the date of the election in question.

23 (2) An action to void a bond election shall be
 24 commenced within 60 days of the date of the election in
 25 question.

1 Section 8. Powers of district court. In any action
 2 brought under the election laws of this state, the
 3 appropriate district court may enjoin any person to prevent
 4 the doing of any prohibited act or to compel the performance
 5 of any act required by the election laws.

6 Section 9. Electors and ballots. (1) An elector may
 7 not show the contents of his ballot to anyone after it is
 8 marked. No elector may place any mark upon the ballot by
 9 which it may be identified as the one voted by him.

10 (2) An elector may not receive a ballot from any
 11 person other than an election judge and may not vote any
 12 ballot except one received from an election judge. No person
 13 other than an election judge may deliver a ballot to an
 14 elector.

15 (3) No person may solicit an elector to show his
 16 ballot after it is marked.

17 (4) An elector who does not vote a ballot delivered to
 18 him shall, before leaving the polling place, return the
 19 ballot to an election judge.

20 Section 10. Conduct of officers and clerks of
 21 election. No officer or clerk of election may:

22 (1) deposit in a ballot box a ballot on which the
 23 official stamp, as provided by law, does not appear;

24 (2) prior to putting the ballot of an elector in the
 25 ballot box, attempt to find out any name on the ballot or

1 open or examine the folded ballot of an elector;

2 (3) look at any mark made by the voter upon the
3 ballot;

4 (4) make or place any mark or device on any folded
5 ballot with the intent to ascertain the name of any person
6 for whom the elector has voted;

7 (5) allow any person other than the voter to be
8 present at the marking of the ballot except as provided in
9 23-3609 and 23-3812(1); or

10 (6) make a false statement in a certificate regarding
11 affirmation.

12 Section 11. Interference with officials. A person who,
13 in any manner, interferes with the officers holding an
14 election or conducting a canvass so as to prevent the
15 election or canvass from being fairly held and lawfully
16 conducted is guilty of obstruction of a public servant and
17 is punishable as provided in 94-7-302.

18 Section 12. Official misconduct. A person charged with
19 performance of any duty under the provisions of the election
20 laws of this state is guilty of official misconduct and is
21 punishable as provided in 94-7-401 whenever the person:

22 (1) knowingly neglects or refuses to perform that
23 duty; or

24 (2) knowingly and fraudulently acts, in his official
25 capacity, in contravention or violation of any provision of

1 the election laws.

2 Section 13. Tampering with election records and
3 information. A person is guilty of tampering with public
4 records or information and is punishable as provided in
5 94-7-209 whenever the person:

6 (1) suppresses any declaration or certificate of
7 nomination which has been filed;

8 (2) purposely causes the vote on a machine to be
9 incorrectly recorded as to the candidate or ballot issue
10 voted on;

11 (3) in an election return, knowingly adds to or
12 subtracts from the votes actually cast at the election;

13 (4) changes any ballot after the same has been
14 deposited in the ballot box or adds any ballot to those
15 legally polled at an election, either before or after the
16 ballots have been counted, with the purpose of changing the
17 result of the election;

18 (5) causes any name to be placed on the registry lists
19 other than in the manner provided by this title; or

20 (6) changes a poll list or check list.

21 Section 14. Injury to election equipment, materials,
22 and records. A person is guilty of criminal mischief or
23 tampering with public records and information, as
24 appropriate, and is punishable as provided in 94-6-102 or
25 94-7-209, as applicable, whenever the person:

1 (1) prior to or on election day, knowingly defaces or
 2 destroys any list of candidates posted in accordance with
 3 the provisions of the law;
 4 (2) during an election:
 5 (a) removes or defaces the cards printed for the
 6 instruction of the voters; or
 7 (b) removes or destroys any of the supplies or other
 8 conveniences placed in the booths or compartments for the
 9 purpose of enabling a voter to prepare his ballot;
 10 (3) removes any ballots from the polling place before
 11 the closing of the polls with the purpose of changing the
 12 result of the election;
 13 (4) carries away or destroys any poll lists, check
 14 lists, ballots, or ballot boxes for the purpose of
 15 disrupting or invalidating an election;
 16 (5) knowingly detains, mutilates, alters, or destroys
 17 any election returns;
 18 (6) mutilates, secretes, destroys, or alters election
 19 records, except as provided by law;
 20 (7) tampers with, disarranges, defaces, injures, or
 21 impairs a voting machine;
 22 (8) mutilates, injures, or destroys any ballot or
 23 appliance used in connection with a voting machine; or
 24 (9) fraudulently defaces or destroys a declaration or
 25 certificate of nomination.

1 Section 15. Deceptive election practices. A person is
 2 guilty of false swearing, unsworn falsification, or
 3 tampering with public records or information, as
 4 appropriate, and is punishable as provided in 94-7-203,
 5 94-7-204, or 94-7-209, as applicable, whenever the person:
 6 (1) falsely represents his name or other information
 7 required upon his registry card and causes registration with
 8 the card;
 9 (2) signs a registry card knowingly witnessing any
 10 false or misleading statement;
 11 (3) knowingly submits a false report or deliberately
 12 fails to include information in a report required by Title
 13 23 or Title 37;
 14 (4) knowingly causes a false statement, certificate,
 15 or return of any kind to be signed;
 16 (5) falsely makes a declaration or certificate of
 17 nomination;
 18 (6) files or receives for filing a declaration or
 19 certificate of nomination knowing that all or part of the
 20 declaration or certificate is false;
 21 (7) forges or falsely makes the official endorsement
 22 of a ballot;
 23 (8) forges or counterfeits returns of an election
 24 purporting to have been held at a precinct, municipality, or
 25 ward where no election was in fact held;

1 (9) knowingly substitutes forged or counterfeit
2 returns of election in place of the true returns for a
3 precinct, municipality, or ward where an election was held;

4 (10) signs a name other than his own to a petition,
5 signs more than once for the same measure, or signs a
6 petition while not being a qualified elector of the state;
7 or

8 (11) makes a false oath or affidavit where an oath or
9 affidavit is required by law.

10 Section 16. Deceiving an elector. A person who
11 deceives an elector voting under 23-3609 or 23-3812 is
12 guilty of a misdemeanor.

13 Section 17. Fraudulent registration. (1) No person may
14 knowingly cause, procure, or allow himself to be registered
15 in the official register of any election district of any
16 county knowing himself not to be entitled to such
17 registration.

18 (2) No person may falsely personate another and cause
19 the person so personated to be registered.

20 (3) When, on the trial of the person charged with any
21 offense under the provisions of this section, it appears in
22 evidence that the accused stands registered in the register
23 of any county without being qualified for such registration,
24 the court shall order such registration canceled.

25 Section 18. Limits on voting rights. (1) No person may

1 vote who is not entitled to vote. No person may vote more
2 than once at an election.

3 (2) No person may, for any election, apply for a
4 ballot in the name of some other person, whether it be the
5 name of a living, dead, or fictitious person.

6 Section 19. Electioneering. (1) No person may do any
7 electioneering on election day within any polling place or
8 any building in which an election is being held or within
9 200 feet thereof.

10 (2) No officer or clerk of election may do any
11 electioneering on election day.

12 (3) No person may buy, sell, give, or provide a
13 political badge, button, or other insignia to be worn at or
14 about the polls on the day of an election, and no such
15 political badge, button, or other insignia may be worn at or
16 about the polls on an election day.

17 Section 20. Betting on elections. (1) A person who
18 makes, offers, or accepts any bet or wager upon the result
19 of any election; upon the success or failure of any person
20 or candidate; upon the number of votes to be cast, either in
21 the aggregate or for any particular candidate; or upon the
22 vote to be cast by any person is guilty of a misdemeanor.

23 (2) If the bet or wager is made for the purpose of
24 influencing the result of the election, the act of betting
25 is grounds to challenge the bettor's right to vote.

1 (3) A candidate who, before or during an election
 2 campaign, makes any bet or wager of anything of pecuniary
 3 value; in any manner becomes a party to any bet or wager on
 4 the result of the election in his electoral district (or in
 5 any part thereof) or on any event or contingency relating to
 6 any pending election; or provides money or other valuables
 7 to be used by any person in betting or wagering upon the
 8 results of any impending election is guilty of a
 9 misdemeanor.

10 Section 21. Preventing public meetings of electors.

11 (1) A person who, by threats, intimidations, or violence,
 12 willfully hinders or prevents electors from assembling in
 13 public meeting for the consideration of public questions is
 14 guilty of a misdemeanor.

15 (2) A person who willfully disturbs or breaks up a
 16 public meeting of electors or others, lawfully being held
 17 for the purpose of considering public questions, or a public
 18 school meeting is guilty of a misdemeanor.

19 Section 22. Illegal influence of voters. No person,
 20 directly or indirectly, by himself or by any other person on
 21 his behalf, for any election, to or for any person on behalf
 22 of any elector or to or for any person, in order to induce
 23 any elector to vote or refrain from voting OR TO VOTE FOR OR
 24 AGAINST ANY PARTICULAR CANDIDATE, POLITICAL PARTY TICKET, OR
 25 BALLOT ISSUE, may:

1 (1) give, lend, agree to give or lend, offer, or
 2 promise any money, liquor, or valuable consideration or
 3 promise or endeavor to procure any money, liquor, or
 4 valuable consideration;

5 (2) promise to appoint another person or promise to
 6 secure or aid in securing the appointment, nomination, or
 7 election of another person to a public or private position
 8 or employment or to a position of honor, trust, or
 9 emolument, in order to aid or promote his nomination or
 10 election, except that he may publicly announce or define
 11 what is his choice or purpose in relation to an election in
 12 which he may be called to take part, if elected.

13 Section 23. Illegal consideration for voting. No
 14 person, directly or indirectly, by himself or by any other
 15 person in his behalf may:

16 (1) before or during any election, for voting or
 17 agreeing to vote or for refraining or agreeing to refrain
 18 from voting at the election or for inducing another to do
 19 so:

20 (a) receive, agree, or contract for any money, gift,
 21 loan, liquor, valuable consideration, office, place, or
 22 employment for himself or any other person; or

23 (b) approach any candidate or agent or person
 24 representing or acting on behalf of any candidate at the
 25 election and ask for or offer to agree or contract for any

1 money, gift, loan, liquor, valuable consideration, office,
2 place, or employment for himself or any other person;

3 (2) after an election, for having voted or refrained
4 from voting or having induced any other person to vote or
5 refrain from voting at the election:

6 (a) receive any money, gift, loan, valuable
7 consideration, office, place, or employment; or

8 (b) approach any candidate or any agent or person
9 representing or acting on behalf of any candidate and ask
10 for or offer to receive any money, gift, loan, liquor,
11 valuable consideration, office, place, or employment for
12 himself or any other person.

13 Section 24. Illegal assistance to naturalized
14 citizens. No elector, candidate for nomination, nominee, or
15 political committee may pay or offer to pay the fee for any
16 person who is about to or has made his declaration of
17 intention or who has taken out or is about to take out his
18 final papers as a citizen of the United States, with the
19 purpose of influencing that person's vote in an election. No
20 person may receive any money or other valuable thing to pay
21 such fee or permit the same to be paid for him for such a
22 purpose.

23 Section 25. Officers and clerks not to influence
24 voter. No officer or clerk of election, while acting in his
25 official capacity, may, by menace, reward, or promise of

1 reward, induce or attempt to induce any elector to cast a
2 vote contrary to his original intention or desire.

3 Section 26. Coercion or undue influence of voters. (1)
4 No person, directly or indirectly, by himself or any other
5 person in his behalf, in order to induce or compel a person
6 to vote or refrain from voting for any candidate, the ticket
7 of any political party, or any ballot issue before the
8 people, may:

9 (a) use or threaten to use any force, coercion,
10 violence, restraint, or undue influence against any person;
11 or

12 (b) inflict or threaten to inflict, by himself or any
13 other person, any temporal or spiritual injury, damage,
14 harm, or loss upon or against any person.

15 (2) No person who is a minister, preacher, priest, or
16 other church officer or who is an officer of any corporation
17 or organization, religious or otherwise, may, other than by
18 public speech or print, urge, persuade, or command any voter
19 to vote or refrain from voting for or against any candidate,
20 political party ticket, or ballot issue submitted to the
21 people because of his religious duty or the interest of any
22 corporation, church, or other organization.

23 (3) No person may, by abduction, duress, or any
24 fraudulent contrivance, impede or prevent the free exercise
25 of the franchise by any voter at any election or thereby

1 compel, induce, or prevail upon any elector to give or to
2 refrain from giving his vote at any election.

3 (4) No person may, in any manner, interfere with a
4 voter lawfully exercising his right to vote at an election
5 so as to prevent the election from being fairly held and
6 lawfully conducted. No person may obstruct the doors or
7 entries of any polling place.

8 Section 27. Demands and requests of candidates. (1) No
9 person may demand, solicit, request, or invite any payment
10 or contribution for any religious, political, charitable, or
11 other cause or organization supposed to be primarily or
12 principally for the public good from a person who seeks to
13 be or has been nominated or elected to any office in return
14 for political support by the donee. No candidate or elected
15 person may make any payment or contribution if it is
16 demanded or asked for such a purpose during the time he is a
17 candidate for nomination or election to or an incumbent of
18 any office. No payment or contribution for any purpose may
19 be made a condition precedent to the putting of a name on
20 any caucus or convention ballot or nomination paper or
21 petition or to the performance of any duty imposed by law on
22 a political committee.

23 (2) No person may demand, solicit, ask, or invite any
24 candidate to subscribe to the support of any club or
25 organization, buy tickets to any entertainment or ball, or

1 subscribe for or pay for space in any book, program,
2 periodical, or other publication in return for political
3 support by the donee. No candidate may make any such
4 payment or contribution with apparent hope or intent to
5 influence the result of the election.

6 (3) This section does not apply to the soliciting of
7 any business advertisement for insertion in a periodical in
8 which the candidate was regularly advertising prior to his
9 candidacy, to ordinary business advertising, to his regular
10 payment to any organization (religious, charitable, or
11 otherwise) of which he may have been a member or to which he
12 may have been a contributor for more than 6 months before
13 his candidacy, or to ordinary contributions at church
14 services.

15 Section 28. Bribing members of political gatherings.

16 (1) No person may give or offer a bribe to any officer or
17 member of any legislative caucus, political convention, or
18 political gathering of any kind held for the purpose of
19 nominating candidates for offices of honor, trust, or profit
20 in this state, with intent to influence the person to whom
21 such bribe is given or offered to be more favorable to one
22 candidate than another. No person who is a member of any of
23 the bodies mentioned in this section may receive or offer to
24 receive any such bribe.

25 (2) A violation of this section is punishable as

provided in 94-7-102(2).

Section 29. Improper nominations. (1) No person may pay or promise valuable consideration to another, in any manner or form, for the purpose of inducing him to be or to refrain from or to cease being a candidate, and no person may solicit or receive any payment or promise from another for such purpose.

(2) No person, in consideration of any gift, loan, offer, promise, or agreement, as mentioned in subsection (1), may:

(a) allow himself to be nominated or refuse to allow himself to be nominated as a candidate at an election;

(b) become, by himself or in combination with any other person or persons, a candidate for the purpose of defeating the nomination or election of any other person, without a bona fide intent to obtain the office; or

(c) withdraw if he has been so nominated.

(3) Upon complaint made to any district court, the judge shall issue a writ of injunction restraining the officer whose duty it is to prepare official ballots for a nominating election from placing the name of a person thereon as a candidate for nomination to any office if the judge is convinced that:

(a) the person has sought the nomination or seeks to have his name presented to the voters as a candidate for

nomination by any political party for any mercenary or venal consideration or motive; and

(b) his candidacy for the nomination is not in good faith.

Section 30. Providing money for bribery or corrupt practices. No person may knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery or corrupt practices at any election.

Section 31. Illegal contributions. Any person who accepts a contribution prohibited by Title 23 or Title 37, R.C.M. 1947; who makes a contribution in excess of the amounts specified in Title 23 or Title 37, R.C.M. 1947; or who makes a contribution in any manner other than that provided in Title 23 or Title 37, R.C.M. 1947, is guilty of an illegal practice and is punishable by a fine not to exceed \$1,000, imprisonment in the county jail for a term not to exceed 6 months, or both, for each separate violation.

Section 32. Publications in newspapers and periodicals. (1) No publisher of a newspaper or other periodical may insert, either in its advertising or reading columns, any paid matter which is designed or tends to aid, injure, or defeat any candidate, any political party or organization, or any measure before the people, unless it is

1 stated therein that it is a paid advertisement. The name of
2 the chairman or secretary, the names of the other officers
3 of the political or other organization inserting the same,
4 or the name of some voter who is responsible therefor (with
5 his address) is to appear in such advertisement.

6 (2) No person may pay the owner, editor, publisher, or
7 agent of any newspaper or other periodical to induce him to
8 editorially advocate or oppose any candidate for nomination
9 or election, and no such owner, editor, publisher, or agent
10 may accept such payment.

11 (3) A person who violates this section is guilty of a
12 misdemeanor.

13 Section 33. Election materials not to be anonymous. It
14 is unlawful to write, print, publish, mimeograph, type, or
15 otherwise produce or circulate through the mails or
16 otherwise any letter, circular, bill, dodger, pamphlet,
17 placard, poster, or other document relating to any election
18 or to any candidate, political party, political committee,
19 or ballot issue at any election, unless the same bears on
20 its face the name and address of the person paying for the
21 printing or publishing and the name of the printer and
22 publisher. A person writing, printing, publishing,
23 circulating, posting, mimeographing, typing, or causing to
24 be written, printed, circulated, posted, mimeographed,
25 typed, or published any such letter, bill, placard, dodger,

1 pamphlet, circular, poster, or other document which fails to
2 bear on its face the name and address of the person paying
3 for the printing or publishing and the name of the printer
4 or publisher is guilty of an illegal practice and shall on
5 conviction thereof be punished by a fine of not less than
6 \$10 or more than \$1,000.

7 Section 34. Unlawful acts of employers and employees.

8 (1) It is unlawful for any employer, in paying his employees
9 the salary or wages due them, to enclose their pay in pay
10 envelopes upon which is written or printed the name of any
11 candidate or political mottoes, devices, or arguments
12 containing threats or promises (express or implied)
13 calculated or intended to influence the political opinions
14 or actions of such employees. It is unlawful for an
15 employer to exhibit in a place where his workers or
16 employees may be working any handbill or placard containing
17 any threat, promise, notice, or information that in case any
18 particular ticket or political party, organization, or
19 candidate is elected work in his place or establishment will
20 cease, in whole or in part, or will be continued or
21 increased; his place or establishment will be closed; the
22 salaries or wages of his workers or employees will be
23 reduced or increased; or other threats or promises (express
24 or implied) intended or calculated to influence the
25 political opinions or actions of his workers or employees.

1 This section shall apply to corporations, individuals, and
2 public officers and employees.

3 (2) No person may attempt to coerce, command, or
4 require a public employee to give money, service, or other
5 thing of value to aid or promote any political committee or
6 to aid or promote the nomination or election of any person
7 to public office.

8 (3) No public employee may solicit any money,
9 influence, service, or other thing of value or otherwise aid
10 or promote any political committee or the nomination or
11 election of any person to public office while on the job or
12 at his place of employment. However, nothing in this
13 section is intended to restrict the right of a public
14 employee to express his personal political views.

15 (4) Any person who violates the provisions of this
16 section shall be fined not to exceed \$1,000, be imprisoned
17 in the county jail for a term not to exceed 6 months, or
18 both, for each separate offense.

19 ~~Section 35. Contributions from corporations, public~~
20 ~~utilities, and others. No corporation, bank, savings bank,~~
21 ~~cooperative, bank, savings, and loan association, trust,~~
22 ~~surety, indemnity, safe deposit, insurance, railroad, street~~
23 ~~railway, telegraph, telephone, gas, electric, light, heat,~~
24 ~~power, canal, aqueduct, water, cemetery, or crematory~~
25 ~~company or any company having the right to take or condemn~~

1 ~~tend or to exercise franchises in public ways granted by the~~
2 ~~state or by any county, city or town may pay or contribute~~
3 ~~in order to aid, promote or prevent the nomination or~~
4 ~~election of any person or in order to aid or promote the~~
5 ~~interests, success, or defeat of any political party,~~
6 ~~organization, or ballot issue. No person may solicit or~~
7 ~~receive such payment or contribution from such corporations.~~

8 Section 35. Prohibition of salary increase
9 contribution. A corporation may not increase the salary of
10 any officer or employee or give an emolument to any officer,
11 employee, or other person with the intention that the
12 increase in salary, the emolument, or any part thereof be
13 contributed to support or oppose a candidate or ballot
14 issue.

15 Section 36. Proceedings against corporations. In like
16 manner as prescribed for the contesting of an election, any
17 corporation organized under the laws of or doing business in
18 the state of Montana may be brought into court on the ground
19 of deliberate, serious, and material violation of the
20 provisions of Title 23 or Title 37. The petition shall be
21 filed in the district court in the county where the
22 corporation has its principal office or where the violation
23 of law is averred to have been committed. The corporation,
24 upon conviction, is punishable:

25 (1) if it is organized under the laws of this state,

1 by a fine not to exceed \$10,000, by cancellation of the
2 certificate of incorporation, or by both fine and
3 cancellation; or

4 (2) if it is a foreign corporation, by a fine not to
5 exceed \$10,000, by enjoining the corporation from further
6 transacting business in this state, or by both fine and
7 injunction.

8 Section 37. Transfer of convention credential. No
9 person may invite, offer, or effect the transfer of any
10 convention credential in return for any payment of money or
11 other valuable thing.

12 Section 38. Unlawful for political party to endorse
13 judicial candidate. A political party which endorses a
14 candidate for justice of the supreme court or district court
15 judge, a person who participates in an endorsement by a
16 political party, or a person who acts on behalf of a
17 political party in endorsing a judicial candidate is guilty
18 of a misdemeanor.

19 Section 39. Prohibition on certain public officers
20 from acting as delegates or members of political committees.
21 No holder of a public position, other than an office filled
22 by the voters, may be a delegate to a convention for the
23 election district that elects the officer or board under
24 whom he directly or indirectly holds such position, nor may
25 he be a member of a political committee for such district.

1 Section 40. Section 23-3006, R.C.M. 1947, is amended
2 to read as follows:

3 "23-3006. Method of registering -- absent electors in
4 the United States service-----felony--provisions. (1) An
5 elector may register by appearing before the registrar or
6 deputy registrar in the county in which he resides and by:

7 (a) ~~Answering~~ answering any questions asked by the
8 registrar concerning items of information called for by
9 registry cards;

10 (b) ~~Signing~~ signing and verifying or affirming the
11 affidavit or affidavits on ~~the back of~~ the card.

12 (2) An elector may register by mailing, postage paid,
13 a properly completed registry card to the registrar in the
14 county in which he resides.

15 ~~(a)~~ (3) The registrar shall send registry cards for
16 mail registrations to all persons requesting them, whether
17 the application is made in writing or by telephone, and
18 shall, in addition, arrange for the cards to be available
19 from city and town clerks within the county and may arrange
20 for them to be available at other locations within the
21 county. The mail registry card shall be in the form
22 prescribed by the secretary of state.

23 ~~(b)~~ (4) The elector shall complete, sign, and either
24 verify or affirm the registry card before a notary public or
25 other officer empowered to administer oaths, or complete

1 and sign the card and obtain the signature, address, and
2 voting precinct of at least one registered voter in the
3 county, who shall witness for the facts stated on the
4 registry card.

5 ~~(c)(5)~~ The registration card must be received on or
6 before the day of the close of registration but in no event
7 less than ten ~~(10)~~ days before the election.

8 ~~(d)(6)~~ Upon receipt of a properly executed registry
9 card the county registrar shall cause to be sent to the new
10 voter a postcard affirming registration and giving the
11 location of the voter's polling place. On the face of the
12 notification shall be printed the words, "Do Not Forward,
13 Return Postage Guaranteed".

14 ~~(3)(11)~~ Any elector in the United States service who is
15 absent from the state and the county of which he is a
16 resident may register by:

17 (a) ~~Mailing mailing~~ the registry card filled out and
18 signed under oath to the registrar, or

19 (b) ~~Mailing mailing~~ the federal post card application
20 filled out and signed under oath to the registrar.

21 ~~(4)--A person is guilty of a felony and upon conviction~~
22 ~~shall be imprisoned in the state prison for not more than~~
23 ~~three (3) years, if:~~

24 ~~(a)--He falsely personates another and causes the~~
25 ~~person so personated to be registered, or~~

1 ~~(b)--Falsely represents his name or other information~~
2 ~~required upon his registry card, and causes or attempts to~~
3 ~~cause registration with the card, or~~

4 ~~(c)--Causes any name to be placed upon the registry~~
5 ~~lists other than in the manner provided by this act, or~~

6 ~~(d)--Signs a registry card knowingly witnessing any~~
7 ~~false or misleading statements"~~

8 Section 41. Section 23-3605, R.C.M. 1947, is amended
9 to read as follows:

10 "23-3605. Prohibited conduct Preventing obstructions.

11 ~~(1)--An election officer shall not do any electioneering on~~
12 ~~election days~~

13 ~~(2)--A person shall not do any electioneering on~~
14 ~~election days within any polling place, in any building in~~
15 ~~which an election is being held, or within two hundred (200)~~
16 ~~feet of the building where the polling place is located,~~

17 ~~(3)--A person shall not obstruct the entries to a~~
18 ~~polling place,~~

19 (4) An election officer, sheriff, constable, or other
20 peace officer may clear the passageway, prevent any
21 obstruction, and arrest any person obstructing the
22 passageway to a polling place.

23 ~~(5)--A person shall not remove a ballot from the~~
24 ~~polling place before the closing of the polls~~

25 ~~(6)--A person shall not show the contents of his ballot~~

1 to any other person after it is marked.

2 ~~{7}--A person shall not solicit the elector to show the~~
3 ~~contents of his ballot; nor shall any person, except the~~
4 ~~election judge, receive from any elector a ballot prepared~~
5 ~~for voting.~~

6 ~~{8}--An elector shall not receive a ballot from any~~
7 ~~other person than one of the election judges; nor shall any~~
8 ~~person other than an election judge deliver a ballot to an~~
9 ~~elector.~~

10 ~~{9}--An elector shall not vote any ballot except one~~
11 ~~received from the election judges.~~

12 ~~{10}--An elector shall not place any mark upon his~~
13 ~~ballot by which it may be identified as the one voted by~~
14 ~~him.~~

15 ~~{11}--An elector who does not vote a ballot delivered to~~
16 ~~him shall, before leaving the polling place, return the~~
17 ~~ballot to the election judges."~~

18 Section 42. Section 23-3607, R.C.M. 1947, is amended
19 to read as follows:

20 "23-3607. No person except election judge to put
21 ballot or other object in a ballot box--penalty. No person
22 except an election judge shall ~~may~~ put a ballot, any paper
23 resembling a ballot, or anything other than a ballot in a
24 ballot box. ~~A person violating this section is guilty of a~~
25 ~~misdemeanor. An election judge who knowingly permits a~~

1 violation of this act is guilty of a felony."

2 Section 43. Section 23-3812, R.C.M. 1947, is amended
3 to read as follows:

4 "23-3812. Assistance to illiterate, blind, or
5 physically disabled voters. ~~{11}~~ A voter who declares he is
6 unable to vote because he cannot read or write, is blind, or
7 physically disabled shall be assisted as provided in section
8 23-3609.

9 ~~{2}--A person who deceives an elector voting under this~~
10 ~~section shall be punished as provided in section 23-4707,~~
11 ~~R.C.M. 1947."~~

12 Section 44. Section 23-3822, R.C.M. 1947, is amended
13 to read as follows:

14 "23-3822. Applicability of election laws in general
15 where not in conflict with this chapter. All laws applicable
16 to elections where voting is not done by machine, and all
17 penalties prescribed for violations of those laws, apply to
18 elections and precincts where voting machines are used if
19 they are not in conflict with the provisions of sections
20 23-3801 through ~~23-3821~~ 23-3819."

21 Section 45. Section 23-4746, R.C.M. 1947, is amended
22 to read as follows:

23 "23-4746. Challenging voters -- procedure. (1)
24 Whenever any person's right to vote shall be at a primary
25 election is challenged, and he has taken the oath prescribed

1 by the statutes, ~~and if it is at a nominating election,~~ then
 2 ~~it shall be the duty of the clerks~~ a clerk of election to
 3 shall write in the pollbooks at the end of such the person's
 4 name the words "challenged and sworn", with the name of the
 5 challenger. Thereupon ~~the chairman of the board of judges and~~
 6 election judge shall write upon the back of the ballot
 7 offered by such the challenged voter the number of his
 8 ballot, in order that the same ballot may be identified in
 9 any future contest of the results of the election, and be
 10 cast out if it ~~shall appear~~ appears to the court to have
 11 been for any reason wrongfully or illegally voted for any
 12 candidate or on any question.

13 (2) ~~And such~~ This marking of the name of such the
 14 challenged voters, ~~nor and~~ the testimony of any judge or
 15 clerk of election in reference thereto or in reference to
 16 the manner in which ~~said the~~ challenged person voted, if
 17 ~~said the~~ testimony ~~shall be~~ is given in the course of any
 18 contest, investigation, or trial wherein the legality of the
 19 vote of such person is questioned for any reason, ~~shall be~~ is
 20 not be deemed a violation of ~~section 94-1487--[23-4787]~~
 21 subsections (2) or (4) [of section 10 of this act]."

22 Section 46. Section 23-4788, R.C.M. 1947, is amended
 23 to read as follows:

24 "23-4788. Prosecutions and powers of the county
 25 attorney. (1) When the commissioner determines that there

1 appears to be sufficient evidence to justify a civil or
 2 criminal prosecution ~~as specified in section 23-4793 under~~
 3 the election laws of this state, he shall notify the county
 4 attorney of the county in which the alleged violation
 5 occurred and shall arrange to transmit to the county
 6 attorney all information relevant to the alleged violation.
 7 If the county attorney fails to initiate the appropriate
 8 civil or criminal action within ~~thirty~~ {30} days after he
 9 receives notification of the alleged violation, the
 10 commissioner may then initiate the appropriate legal action.

11 (2) A county attorney may at any time prior to the
 12 expiration of the ~~thirty~~ {30}-day 30-day time period
 13 specified in subsection (1) waive his right to prosecute and
 14 thereby authorize the commissioner to initiate the
 15 appropriate civil or criminal action ~~as specified in~~
 16 section 23-4793 under the election law.

17 (3) The provisions of subsection (1) do not apply to a
 18 situation in which the alleged violation has been committed
 19 by the county attorney of a county. In this instance, the
 20 commissioner is authorized to directly prosecute any alleged
 21 violation of Title 23, ~~R.C.M. 1947~~ or Title 37.

22 (4) If a prosecution is undertaken by the
 23 commissioner, all court costs associated with the
 24 prosecution shall be paid by the state of Montana, and all
 25 finances and forfeitures imposed pursuant to a prosecution by

1 ~~the commissioner shall be deposited in the state general~~
2 ~~fund.~~

3 (5) Nothing in ~~this act~~ Title 23 or Title 37 shall
4 prevent a county attorney from inspecting any records,
5 accounts, or books which must be kept pursuant to the
6 provisions of ~~Title 23, R.C.M., 1947~~ or Title 37, that are
7 held by ~~any~~ a political committee or candidate involved in
8 an election to be held within the county. However, ~~such the~~
9 inspections must be conducted during reasonable office
10 hours.

11 (6) A county attorney shall have the authority to
12 administer oaths and affirmations; subpoena witnesses;
13 compel their attendance; take evidence; and require the
14 production of any books, correspondence, memoranda, bank
15 account statements of a political committee or candidate, or
16 other records which are relevant or material for the purpose
17 of conducting any investigation pursuant to the provisions
18 of ~~Title 23, R.C.M., 1947~~ or Title 37."

19 Section 47. Section 37-109, R.C.M. 1947, is amended to
20 read as follows:

21 "37-109. Who may petition--false-----signature--
22 penalties. Each qualified elector of the state of Montana
23 may sign a petition for the referendum, or for the
24 initiative, or for constitutional referendum or
25 constitutional initiative. ~~Any person signing any name other~~

1 ~~than his own to a petition, or signing one more than once~~
2 ~~for the same measure at one election, or who is not, at the~~
3 ~~time of signing a petition, a qualified elector of this~~
4 ~~state, or any officer or any person willfully violating any~~
5 ~~provision of this statute, shall, upon conviction thereof,~~
6 ~~be punished by a fine not exceeding five hundred dollars~~
7 ~~(\$500), or by imprisonment in the penitentiary not exceeding~~
8 ~~two (2) years, or by both."~~

9 Section 48. Severability. If a part of this act is
10 invalid, all valid parts that are severable from the invalid
11 part remain in effect. If a part of this act is invalid in
12 one or more of its applications, the part remains in effect
13 in all valid applications that are severable from the
14 invalid applications.

15 Section 49. Repealer. Sections 23-2606, 23-3025,
16 23-3029, 23-3317, 23-3717, 23-3820, 23-3821, 23-4511,
17 23-4701, 23-4702, 23-4703, 23-4704, 23-4705, 23-4706,
18 23-4707, 23-4708, 23-4709, 23-4710, 23-4711, 23-4712,
19 23-4713, 23-4714, 23-4715, 23-4716, 23-4717, 23-4718,
20 23-4719, 23-4720, 23-4721, 23-4723, 23-4724, 23-4732,
21 23-4738, 23-4740, 23-4741, 23-4742, 23-4743, ~~23-4744,~~
22 23-4744.1, 23-4745, 23-4747, 23-4748, 23-4749, 23-4751,
23 23-4752, 23-4753, 23-4754, 23-4756, 23-4768, 23-4773, and
24 23-4793, R.C.M. 1947, are repealed.

-End-